

# Homes in Multiple Occupation Supplementary Planning Document

December 2020





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# 1. Introduction

This Homes in Multiple Occupation (HMO) Supplementary Planning Document (SPD) sets out planning guidance which is applicable to planning applications which relate to HMOs. The planning system can help to control the development and assist in achieving balanced and well functioning neighbourhoods, through the adoption of planning policy and planning guidance. This SPD provides planning guidance to help control the development of HMOs where planning permission is required.

The technical definition of an HMO is generally defined as three people (who do not form one household) (e.g a family) living together. In common with other cities, particularly those which host higher education establishments and coastal communities, Sunderland has experienced pressure from HMOs, with a significant increase in the number of HMOs in the city in recent years.

Sunderland's stock of HMOs forms a significant part of the city's private rented provision, providing homes and contributing to people's housing choice. This form of accommodation is generally more affordable, flexible and therefore suitable for younger people and other households that are not living as families. As well as reducing housing costs for individuals, sharing homes can also have positive social benefits for occupiers, helping individuals, especially young people, form new networks and relationships. It is also acknowledged that trends in the housing market are making it increasingly difficult, especially for low-income and single person households, to find suitable accommodation that meets, as well as suits, their own needs and preferences. There is therefore a role for HMOs within the overall housing mix.

However, whilst the city's stock of HMOs is contributing to meeting housing needs, increased numbers of multiple occupancy properties can have the potential to create harmful impacts. Concentrations within neighbourhoods can lead to imbalanced and unsustainable communities and can damage the residential amenity and character of surrounding areas. Harmful impacts associated with high numbers of HMOs can include<sup>1</sup>:

- Reduced social cohesion resulting from demographic imbalance.
- Reduced housing choice resulting from housing type/tenure imbalance (e.g. a shift from permanent family housing to more transient accommodation);
- Reduced community engagement from residents resulting from an increase in the transient population of an area;
- Noise and disturbance resulting from intensification of the residential use and/or the lifestyle of occupants;
- Detriment to visual amenity resulting from poor or accumulative external alterations to properties and/or poor waste management;
- Reduced community facilities resulting from a shift in the character of shops and businesses;
- Highway safety concerns resulting from congested on-street parking.

The concentration and increase of HMOs is not just a phenomenon exclusive to Sunderland. Many communities across the UK have seen similar trends. In response to this, other Local Authorities have set out a range of policy tools, utilising both housing and planning powers to tackle high concentrations of HMOs. One of the most typical has been through adoption of planning guidance, such as SPDs.

## Preparing the SPD

This HMO Supplementary Planning Document (SPD) has been prepared in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012. The document should be used alongside relevant Local Plan policies to determine all applications for new HMOs and constitutes an important material consideration in the decision-making process.

<sup>1</sup> Evidence Gathering – Housing In Multiple Occupation and Possible Planning Responses, Department for Communities and Local Government <https://webarchive.nationalarchives.gov.uk/20120919230509/http://www.communities.gov.uk/documents/planningandbuilding/pdf/evidencegatheringresearch.pdf>

## **Sustainability Assessment**

SPDs do not require the preparation of a Sustainability Appraisal (SA). Consequently, a SA has not been prepared.

## **Strategic Environmental Assessment**

In exceptional circumstances SPDs may require a Strategic Environmental Assessment (SEA) if it is considered the SPD is likely to have a significant environmental effect that has not already been assessed during the preparation of relevant strategic policies. In regard to this, it is not considered that this SPD would have a significant environmental effect. Moreover, policies associated with the SPD have previously been subject to SA via the Core Strategy and Development Plan adoption process.

## **Consultation**

The Council consulted on an HMO SPD Scoping Report between Monday 24 February 2020 and Monday 30 March 2020. The nature of the Scoping Report was to explore the range of matters which the HMO SPD could cover. After the Scoping Report stage a consultation on the draft document was undertaken between 21 September 2020 to 19 October 2020. This document has taken account of the responses received and a Consultation Statement has been prepared, which summarises comments made and identifies how these have been taken into account when preparing this document.

## 2. What is an HMO

The full legal definition of an HMO is given under the Housing Act 2004. Types of living accommodation defined include:

*One or more units of living accommodation within a building or part of a building not consisting of self-contained flats occupied by more than one household as their only or main residence with at least one person paying rent and two or more of the households sharing one or more basic amenities (or the building lacks an amenity) such as a bathroom, toilet or cooking facilities.*

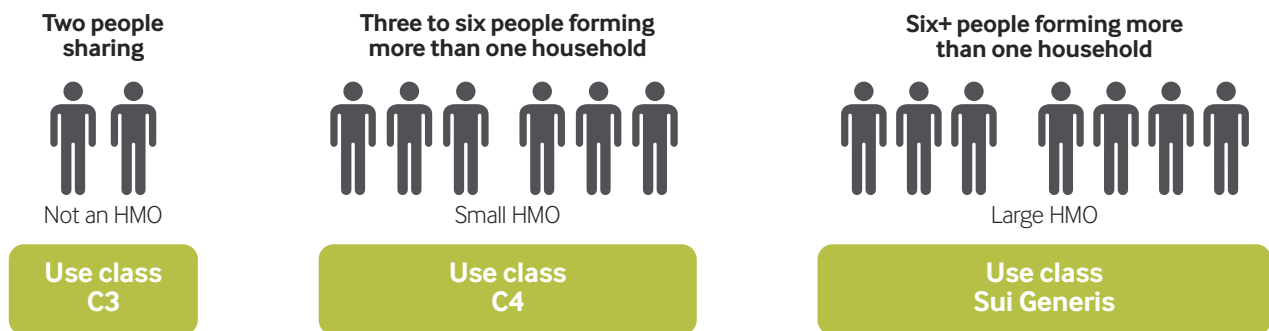
*A self-contained flat within a building occupied by more than one household as their only or main residence with at least one person paying rent and two or more of the households sharing one or more basic amenities (or the building lacks an amenity) such as a bathroom, toilet or cooking facilities.*

*A converted building where new living accommodation has been created since its construction that is not a self-contained flat or flats and occupied by more than one household as their only or main residence with at least one person paying rent.*

*A building or part of a building which has been converted into self-contained flats where the conversion works did not comply with 1991 Building Regulations and more than one third of the flats are not owner-occupied.*

HMOs are generally defined as a property rented out by at least three people who do not form a single 'household'.

Figure 1: Classification of cohabiting household



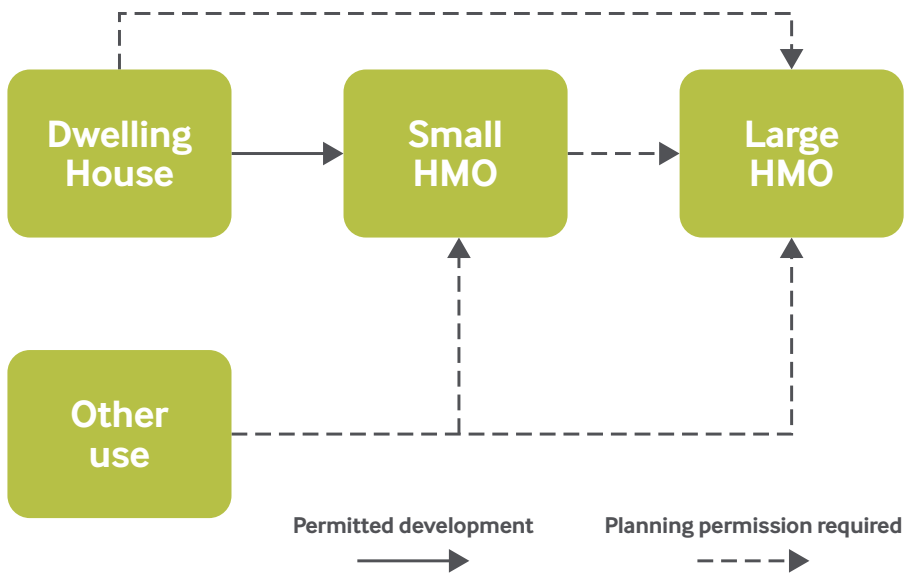
On 6 April 2010, amendments were made to the Use Class Order, 1987 (as amended) and the General Permitted Development Order, 2018 (as amended). This change makes it possible for a change of use between a conventional dwelling house (use class<sup>2</sup> C3) in to a 'small HMO'<sup>3</sup> (use class C4) without requiring planning permission.' However, as 'large HMOs'<sup>4</sup> sit outside of this, as a Sui Generis Use, planning permission is required for conversion from an alternative use (which includes from a C3 dwelling house) to a Large HMO.

<sup>2</sup> 'Use class' is a planning term, different uses are compartmentalised into separate use classes, planning permission is generally needed to change use unless it is considered to be permitted development as set out in the General Permitted Development Order. [http://www.legislation.gov.uk/uksi/2015/596/pdfs/uksi\\_20150596\\_en.pdf](http://www.legislation.gov.uk/uksi/2015/596/pdfs/uksi_20150596_en.pdf)

<sup>3</sup> 'Small HMOs' is defined where three to six people forming more than one household live in a dwelling house.

<sup>4</sup> 'Large HMOs' is defined where more than six people forming more than one household live in a dwelling house.

Figure 2: HMO Permitted Development and where planning permission is generally required



As illustrated in Figure 2<sup>5</sup>, the current permitted development regulations mean a dwelling house can be converted into a ‘small HMO’ without planning permission. This potentially leaves open the possibility for the conversion of the City’s privately-owned housing stock, (the majority tenure in Sunderland), into small HMOs, excluding where Article 4 Directions are established<sup>6</sup>. Further details on where Article 4 Directions have been established within Sunderland are set out later in this report.

<sup>5</sup> It should be noted that where ‘Article 4 Direction’ is in place, planning permission for all forms of HMO (both small and large) will require planning permission. Article 4 Directions are described in more detail within this document.

<sup>6</sup> Article 4 relates to Article 4 of the General Permitted Development Order (1995) (as amended) which sets out the power for Local Planning Authorities to remove relevant permitted development rights.



## 3. Policy context

### National Planning Policy and guidance

The National Planning Policy Framework<sup>7</sup> 'the Framework' (NPPF 2019) sets out the Government's planning policies for England and how these should be applied. The Framework does not include any specific policies on HMOs, however Chapter 5 (Paragraphs 59 to 79) does include a range of policies covering general housing issues.

The Framework is also supported by more detailed planning guidance set out in the Planning Practice Guidance (PPG)<sup>8</sup>. However, there is no specific guidance on HMOs contained within the PPG.

### Local Planning Policy

The Councils adopted Sunderland Core Strategy and Development Plan (CSDP)<sup>9</sup> forms part of the Sunderland Local Plan alongside the existing International Advanced Manufacturing Plan (IAMP) Area Action Plan (AAP) and forthcoming Allocations and Designations Plan (A&D Plan).

As part of the CSDP, policy H6, sets out the Councils policy with regard to HMOs. The policy indicates that development for HMOs should ensure that:

- The property is located where increased traffic and activity would not be detrimental to local amenity;
- The intensity of use would not adversely affect the character and function of the locality;
- The proposal would not be detrimental to the amenities of neighbouring properties by causing undue noise and disturbance;
- Adequate provision for parking, servicing, refuse, recycling arrangements and the management and maintenance of the property can be demonstrated through the submission of a management plan; and
- The proposal would not result in an over concentration of HMOs within the locality.

The CSDP sets out in background text to support the policy<sup>10</sup> that proposed HMOs should demonstrate that they would not have a detrimental effect on the character and function of the locality, its local amenity or neighbouring properties. In addition, it sets out that when considering whether there is an over concentration of HMO properties within the locality, the Council will consider each proposal on its individual merits, taking into account the number of existing HMOs, clustering and the character of the area. The background text also sets out that particular attention will be given to ensure that a good standard of amenity is in place for future occupiers of the HMO and proposals will need to retain acceptable levels of privacy and protect amenity.

### Article 4 Directions

The Council, as a Local Planning Authority, has the power to introduce Article 4<sup>11</sup> Directions, which remove certain permitted development rights. Where these have been introduced, it requires development which would normally be considered permitted development (and therefore not requiring planning permission) to submit a planning application for determination by the Council.

An Article 4 Direction can only be made where the Local Planning Authority is satisfied that it is expedient that development that would normally benefit from permitted development should not be carried out unless planning

<sup>7</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/810197/NPPF\\_Feb\\_2019\\_revised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf)

<sup>8</sup> <https://www.gov.uk/government/collections/planning-practice-guidance>

<sup>9</sup> [https://www.sunderland.gov.uk/media/22171/Core-Strategy-and-Development-Plan-2015-2033/pdf/CSDP\\_2015-2033.pdf?m=637159725864470000](https://www.sunderland.gov.uk/media/22171/Core-Strategy-and-Development-Plan-2015-2033/pdf/CSDP_2015-2033.pdf?m=637159725864470000)

<sup>10</sup> CSDP, page 71.

<sup>11</sup> Article 4 relates to Article 4 of the General Permitted Development Order (1995) (as amended) which sets out the power for Local Planning Authorities to remove relevant permitted development rights.

permission is first granted on an application through the formal planning process. As such, an Article 4 Direction should only be made in exceptional circumstances where evidence suggests that the exercise of the permitted development rights would cause harm.

## Article 4 Directions in Sunderland

In September 2012, the Council established an Article 4 Direction in specific parts of Sunderland, for the purposes of controlling the conversion of dwelling houses (C3) to small HMOs (C4)<sup>12</sup>. The Article 4 Direction is in place for the Barnes, Hendon, Millfield, St Michael's and St Peter's wards (see Figure 3).

The Cabinet Report which recommended the introduction of the Article 4 Direction indicated that these wards contain the highest concentration of HMOs within the city. Indeed, in 2012, 92.5 percent of known HMOs within the Sunderland administrative area were within the five wards covered by the Article 4 Direction.

The Article 4 Direction was subject to a public consultation process and the provision of a minimum of 12 months prior notice before taking effect. The Direction was thus brought into force on the 16 December 2013<sup>13</sup>. The Article 4 Direction remains in force. Figure 4 (overleaf) illustrates where planning permission is required. For clarity, in those areas subject to an Article 4 Direction, planning permission is required for all HMO development (dark blue). In those areas not subject to Article 4 Direction, (light blue), planning permission is required for large HMOs only.

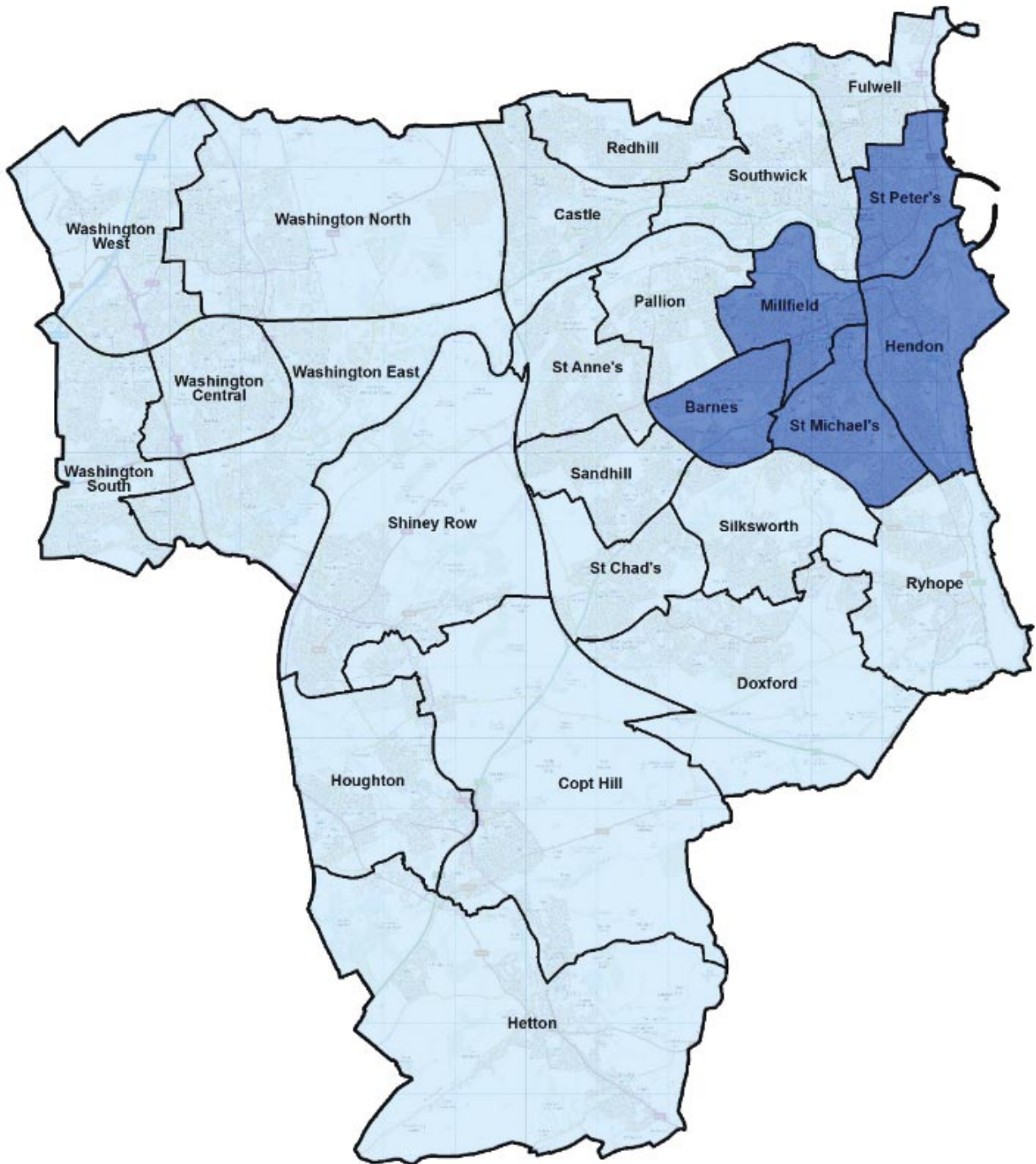
Figure 3: Wards subject to existing Article 4 Direction for HMO conversions





<sup>12</sup> See Sunderland City Council Cabinet, 5 September 12, report for more information.

<sup>13</sup> [https://www.sunderland.gov.uk/media/20955/SP-56-HMO-Atricle-4-Direction/pdf/SP56\\_HMO\\_Article\\_4\\_Direction.pdf?m=636803146831970000](https://www.sunderland.gov.uk/media/20955/SP-56-HMO-Atricle-4-Direction/pdf/SP56_HMO_Article_4_Direction.pdf?m=636803146831970000)

Figure 4: Where Planning Permission is required



### Key

-  Article 4 area - planning permission required for all HMO development
-  Planning permission required for large HMOs only



University of Sunderland

CONSTRUCTION ZONE

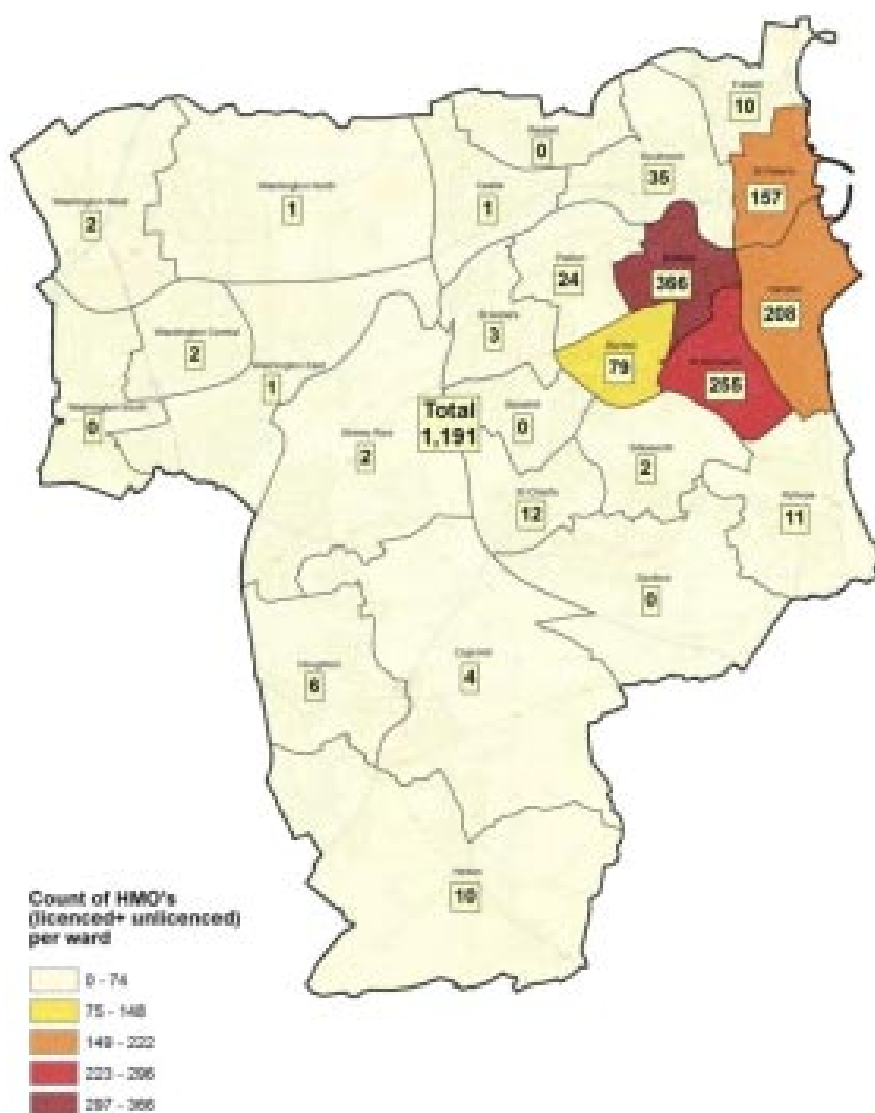
Leisure Centre  
The Port  
Empire Theatre  
Hendon

## 4. Sunderland evidence

The following section sets out a brief high-level summary of applicable evidence and research associated with HMOs.

One of the most comprehensive assessments of HMOs and the problems caused by high concentration of HMOs, (particularly in relation to a concentration of student population), is the Department Of Communities and Local Government 'Evidence Gathering – Housing in Multiple Occupation and Possible Planning Response' document. It described the social, economic, physical and environmental impact of HMOs. In terms of the social impact, the report having a specific regard to student housing HMOs, indicates that increasing student population can lead to the displacement of established residents, to be replaced with an increasingly younger and transient population. It was argued that this can have an impact on associated community infrastructure. The report also linked an increasing number of student housing HMOs to a diminishing community cohesion and identity. In terms of the physical and environmental impacts, the report set out that private rented stock is often the poorest quality when compared to other tenures and thus the concentration of such stock can lead to a poor-quality local environment.

Figure 5: Location of HMOs Within Sunderland by Ward (October 2018)



In November 2011, evidence was gathered to support the Article 4 Direction regarding the quantum of HMOs across the city. 856 HMOs across the Sunderland Administrative Area (licenced and unlicenced) were identified. Furthermore, in October 2018 further evidence gathering by the Council identified approximately 1,200 HMOs within the city. The spatial distribution of these is set out in figure five.

The workstream also identified that the majority of HMOs were located within the five wards which benefit from Article 4 Directions. These five wards contained 89 percent of all HMOs within the Sunderland Administrative Area. The number of HMOs in each of these Wards is set out in Table One below.

**Table One: HMOs in the five wards benefiting from Article 4 Directions**

Wards	Number HMOs (2012)	Number HMOs (2018)
Barnes	57	79
Hendon	111	208
Millfield	324	366
St Michael's	182	255
St Peter's	118	157
<b>Total</b>	<b>792</b>	<b>1,065</b>

### Planning Applications Data

Between January 2010 to January 2020, the Council have received 93 planning applications and certificate of lawfulness applications for HMO development. 67 percent were approved, 18 percent were refused, and 15 percent were withdrawn. As set out in Table Two planning applications and certificate of lawfulness applications were concentrated in only 8 wards across the Sunderland Administrative Area. The majority of which (95 percent) were within the Article 4 area. This is partly due to those areas requiring planning permission for small HMOs, as permitted development rights have been taken away for this type of development.

**Table Two: Planning Applications and Certificate of Lawfulness Applications for HMO**

Wards	Number of Applications	Article 4 Area
Millfield	32	Yes
Hetton	25	Yes
St Peter's	15	Yes
St Michael's	13	Yes
Southwick	3	No
Barnes	3	Yes
Hetton	1	No
Ryhope	1	No
<b>Total</b>	<b>93</b>	

## 5. Planning guidance applicable to HMO planning applications

### When will the guidance be applied?

This guidance will apply to all new HMOs which require planning permission. As previously noted though, not all conversions to HMOs require planning permission.

### Houses in Multiple Occupation planning guidance

1. Planning permission for HMOs will not normally be granted:
  - i. Where it would result in any residential property (C3 use) being 'sandwiched' between two HMOs  
or
  - ii. Where the number of HMO dwellings exceeds 10% of the total number of residential properties, within a radius of 100 metres from the application site.
2. Where either of the above criteria has been breached, planning permission will only be granted in exceptional circumstances.
3. Notwithstanding the threshold limit and exceptional circumstances set out above (criterion 1 and 2), other material considerations including, but not limited to, highways, amenity, character, neighbouring amenity, highway safety and residential amenity of future and existing occupiers arising from the impact of the proposal will be assessed in accordance with the Council's development plan, in particular Core Strategy and Development Plan Policy H6: Homes in Multiple Occupation (HMOs).

The planning guidance set out above requires identification of the following:

#### **Step 1: Identifying if the application would result in the sandwiching effect (Criterion 1, subpoint i)**

Sandwiching refers to circumstances where a residential property (in a C3 use class) would have two HMOs as adjoining neighbouring properties. As shown in Figure 6, planning permission would not be granted where the introduction of new HMO would result in an existing dwelling being sandwiched by any adjoining HMOs on both sides. This would not apply where the properties are separated by an intersecting road or where properties have a back to back relationship in different streets.

Sandwiching is considered a problem, as two HMOs either side of a home (in a C3 use class) can impact on the amenity enjoyed by that household. In addition, as HMOs can increase the intensity of use, through potentially increased noise, refuse, parking, the sandwiching effect can also change the character of the neighbourhood.

Figure 6: An example of sandwiching





## Concentration effect (Criterion 1, subpoint ii)

Where the application passes the sandwich impact (set out above in step one), the proposal would need to demonstrate that it also passed the second aspect of criterion 1, subpoint ii. More information on this is set out below:

### Step 2a: Identifying applicable resident properties

Firstly, all the residential units within 100 metres from the centre of the main/front entrance of the principle elevation of the application site should be identified (Figure 7: illustrates this by using a worked example). To be clear which residential properties are identified, all sub-divided properties including flatted blocks within the same curtilage are counted as one whole property. In addition, where only a small part of the curtilage of a residential unit is within the 100 metre radius this will be included within the 'applicable residential properties' total.

In those instances where the application relates to a new build, accompanying drawings will be used to identify the main/front door. Relevant submitted planning applications should clearly identify the main/front door.

### Step 2b: Identifying HMOs within 100 metre radius

The next stage is to identify all applicable HMOs within a radius of 100 metres. Table Three identifies the relevant types of HMOs which will be used to identify the total HMOs within the given radius.

Table Three: Applicable HMOs	
Source	Description
Planning Register	This will capture all HMOs which have received planning consent (C4, sui generis HMO and a certificate of lawfulness (or other form of planning related consent). In addition, Small HMOs with a lawful flexible permission will also be treated as an HMO.
Electoral Register	This will capture additional homes, identifying where three or more apparently unrelated individuals are living at the same address, but it is recognised that this will not provide conclusive evidence that the property is an HMO. A property not registered will still be investigated under the other sources.
Council Tax Records	This will include, properties which are occupied by full time students only. The information will only be made public by the Council in the determination of a planning application. The details of the location of the identified student HMOs amongst other HMOs surrounding the application site will not be disclosed.
HMO Licencing Register	This will capture licensed HMOs under the Housing Act which are occupied by 5 or more persons forming 2 or more households sharing or lacking a basic amenity.

It is considered that the sources set out in the table above, provides the most effective approach to identifying the number and location of HMOs in the area of interest determined by the planning application. However, it is accepted that it may not be possible to identify all properties of this type.

### Step 2c: Calculating Concentration

When the total number of HMOs are understood, this is compared against the total number of residential dwellings set out in step one. For clarity, the concentration of HMOs surrounding the application site is calculated as a percentage of the 'total estimated number of existing HMOs' against the 'total number of residential properties'. Where the concentration exceeds 10 percent, the application would normally be refused.

Figure 7: Example of how the HMO concentration approach will be applied

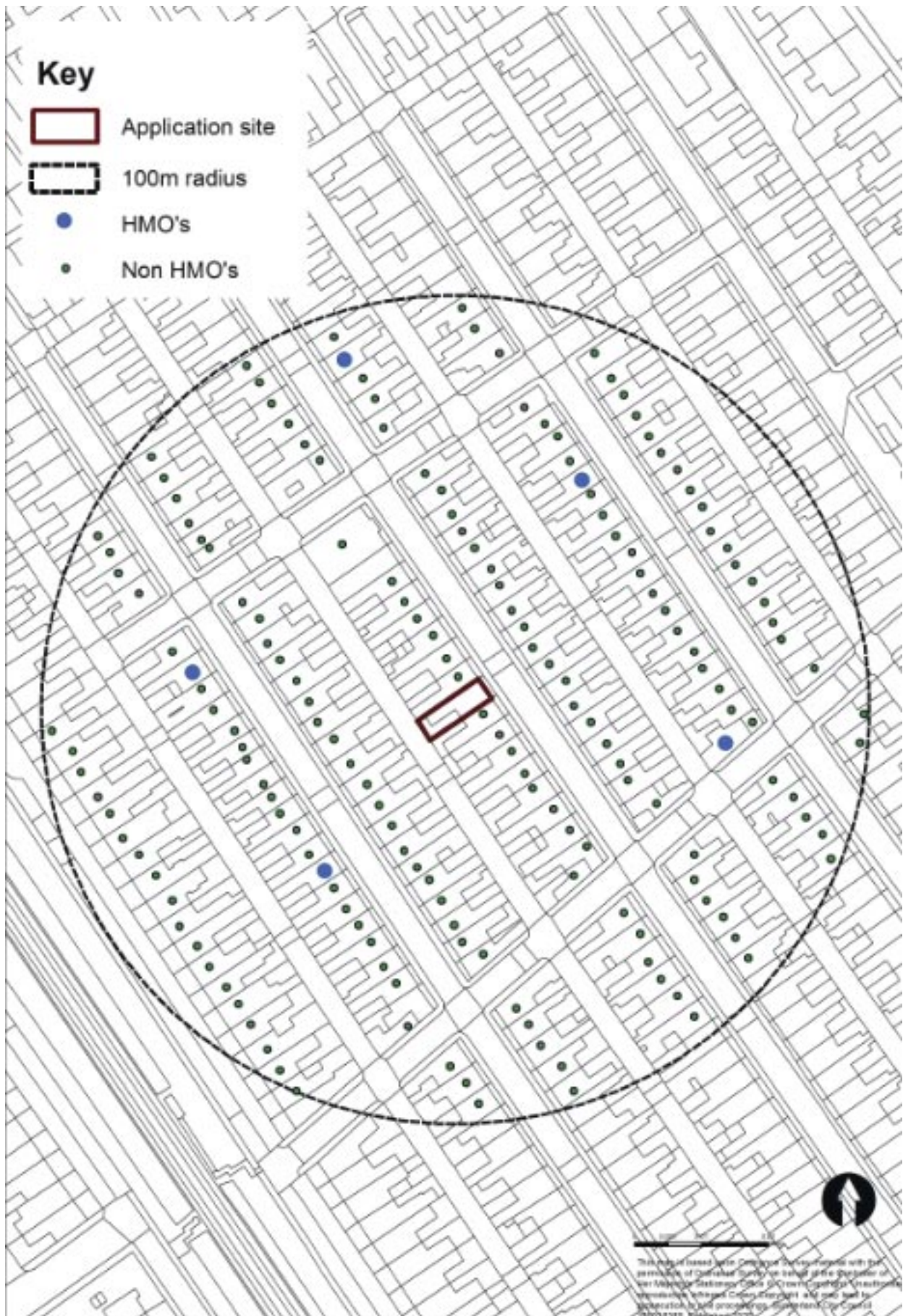
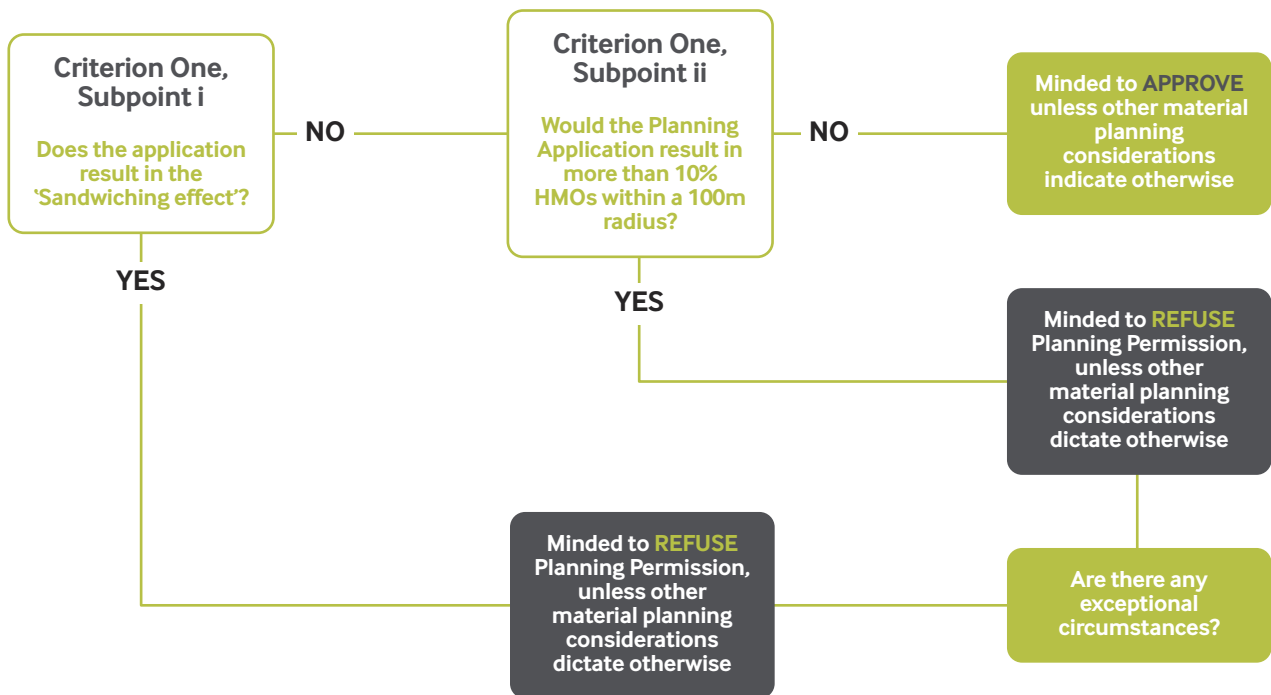


Figure 8 illustrates how planning applications for HMOs will be considered.

Figure 8: Flow diagram for HMO applications



## Extensions to Existing HMOs

When the Council considers a planning application for an extension to an existing lawful HMO, the threshold limit will not be applied as the use of the property as a HMO has already been established and therefore the proposal would have no further effect on the concentration of HMOs and balance and mix of households in the local community.

The amenity and physical impacts of the extension will be assessed in accordance with the Development Plan, in particular CSDP Policy H6: Homes in Multiple Occupation. Where HMOs are extended, and the number of HMO occupants would increase, this can impact on neighbouring occupiers, such as through additional impacts on parking and refuse. In addition HMOs, especially larger HMO properties, can be associated with increased comings and goings. These issues will therefore be carefully considered in the determination of planning applications for extensions to HMOs. Where it is deemed that significant adverse impacts upon amenity would arise, planning applications will normally be refused.

## Regularising HMOs

A landlord may be eligible to apply for a 'Certificate of Lawful Use' to regulate an existing HMO dwelling which is not lawful under the Council's planning records.

A 'Certificate of Lawfulness' can be applied for, to regulate a large or small HMO. To receive a certificate, the application must demonstrate ten years of continuous occupancy as an HMO. Evidence will be required to the Council's satisfaction which demonstrate the lawful occupation of the HMO.





