

# Houses in Multiple Occupation – Supplementary Planning Document SPD6



Adopted March 2018





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## 1.0 Introduction

- 1.1 A new University campus and associated student accommodation is proposed at a number of locations within Stretford (known as 'University Academy 92') with an anticipated opening date of September 2019. These proposals are likely to be accompanied by a significant number of students moving into the Borough and the Stretford area in particular. The projected number of students attending UA92 is predicted to be 650 at year one (September 2019) increasing to a roll of 6500 by 2028, which will be the maximum number. As a result of these proposals, an increase in the number of Houses in Multiple Occupation (HMOs) within Trafford is anticipated.
- 1.2 Houses in Multiple Occupation provide much-needed housing accommodation. However, a large number of HMOs in one area can change the physical character of that residential area and this can lead to conflict with the existing community.
- 1.3 The planning system can assist in achieving a mix of households within the Borough's neighbourhoods, meeting different housing needs whilst protecting the interests of other residents, landlords and businesses. This can best be delivered by preventing the development of excessive concentrations of HMOs and thus encouraging a more even distribution across the Borough.
- 1.4 The making of an Article 4(1)<sup>1</sup> direction to remove the permitted development rights to convert a single dwellinghouse (class C3)<sup>2</sup> into an HMO was confirmed by Trafford's Planning and Development Management Committee on 8th March 2018; it applies to the whole Borough of Trafford. Planning permission is therefore now required to convert a dwellinghouse to a small/medium HMO as well as to convert a property into a large HMO for 7 or more occupants. This Direction is intended to enable the Council to better manage impacts arising as a result of the anticipated influx of students into the Borough.
- 1.5 An historic Supplementary Planning Guidance for HMOs was adopted in 1992. This historic document no longer provides appropriate or up to date guidance in terms of considering proposals for HMOs and therefore requires revision. Following the adoption of the Revised HMO SPD, the 1992 version has been superseded.
- 1.6 The 2008 Planning Act removed the requirement for a Sustainability Appraisal (SA) of Supplementary Planning Documents (SPD) that do not introduce new policies or proposals or modify planning documents which have already been subject to a SA. This SPD supports Policy L7 and other relevant policies in the Core Strategy<sup>3</sup> that have been subject to SA as part of the Core Strategy process. The Inspector appointed to consider the soundness of the Trafford Core Strategy concluded in her report (November 2011) that the Core Strategy was adequate in terms of its appraisal of the environmental, economic and social effects of its policies. The Council is therefore satisfied that the impacts have been covered in the appraisal of the parent Development Plan Document and there is no further requirement for appraisal or screening of this SPD.

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<sup>1</sup> The government introduced permitted development rights in October 2010 to change between use class C3 and C4. An Article 4 Direction allows the Council to remove these permitted development rights within the Trafford boundary.

<sup>2</sup> Single dwellinghouse is classed as C3 use under The Town and Country Planning (Use Classes) Order 1987 (as amended).

<sup>3</sup> Trafford Local Plan: Core Strategy – Adopted January 2012.

## **2.0 Purpose of the SPD**

- 2.1 This SPD will form part of the Council's overall planning policy framework. The document provides supplementary guidance for all parties involved in the planning application process for both small/medium and large HMOs, explaining how the Council will assess proposals to convert properties to HMOs.
- 2.2 Although the SPD is not part of the statutory development plan, it will be accorded significant weight as a material consideration in the determination of planning applications.
- 2.3 In broad terms, an HMO under planning legislation is defined as a house or flat occupied by a certain number of unrelated individuals who share basic amenities and is classified by the Uses Classes Order:-
- Class C4 – between 3 and 6 residents
  - Sui generis (of its own kind) – more than 6 residents
- 2.4 Although the planning system can influence the location of new HMOs, the statutory powers under the planning system cannot act alone and address the existing problems in areas where high concentrations of HMOs prevail. The Council can use other statutory powers to control the nuisance caused by HMOs, as explained below.
- 2.5 The Housing Standards Team provides guidance to landlords and is responsible for the mandatory licensing of HMOs with three or more floors and with five or more tenants belonging to two or more households.
- 2.6 The Council's Pollution and Licensing Team provides guidance and assistance in the monitoring and enforcement of local nuisance, including the impact from noise. A statutory nuisance is defined as an act that causes unreasonable disturbance to the use and enjoyment of a neighbour. Where a statutory noise nuisance exists, is likely to happen, or is likely to be repeated, officers can serve a Noise Abatement Notice.

## **3.0 National and local policy background**

- 3.1 All applications for planning permission for HMOs will be assessed against existing local and national planning policies and supplementary guidance, as well as this SPD.
- 3.2 Paragraph 50 of the National Planning Policy Framework (NPPF) states that local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community. This also states that local planning authorities should identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand.
- 3.3 One of the core planning principles set out in paragraph 17 of the NPPF is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 3.4 Policy L1 of the Trafford Core Strategy seeks to ensure that there is an adequate supply of housing throughout the plan period and that the right kind of homes are provided in the right locations.

- 3.5 Policy L2.1 of the Core Strategy states that all new residential development proposals will be assessed for the contribution that will be made to meeting the housing needs of the Borough and the wider aspirations of the Council's Sustainable Community Strategy. Policy L2.2 goes on to say that all new development will be required to not be harmful to the character of the immediately surrounding area.
- 3.6 Policy L4 of the Core Strategy refers to maximum parking standards which will be used in the assessment of development proposals. The adopted SPD3: Parking Standards and Design<sup>4</sup> is used for this purpose.
- 3.7 Policy L7 of the Trafford Core Strategy deals with matters of Design. It covers matters of design quality; functionality, protecting amenity, security and accessibility. Of particular note in relation to this SPD is the policy relating to the protection of amenity. Policy L7 states that "In relation to matters of amenity protection, development must: Be compatible with the surrounding area; and Not prejudice the amenity of the future occupiers of the development and / or occupants of adjacent properties by reason of overbearing, overshadowing, overlooking, visual intrusion, noise and / or disturbance, odour or in any other way".

## 4.0 Policy

### 4.1 Planning permission will not normally be granted for changes of use to HMOs:

- i) Where the proportion of HMO dwellings will exceed 10% of all residential properties\* within a circle of radius 40 metres\*\* from the application site. This includes all properties where the curtilage of the residential property lies wholly or partly within this radius.*

*Where the circle does not include a minimum of 10 residential properties, the threshold will apply to the 10 residential properties nearest to the application site\*\* located on all frontages of the street (with the same street address).*

or

- ii) Where it would result in any residential property (C3 use) being 'sandwiched' between two HMOs*

### 4.2 When the threshold has been breached already, planning permission will only be granted in exceptional circumstances.

### 4.3 Notwithstanding the threshold limit and exceptional circumstances, other material considerations (such as intensification of use, highway safety, residential amenity of future and existing occupiers) arising from the impact of the proposal will be assessed in accordance with the Council's relevant development management policies and guidance, in particular Core Strategy Policy L7.

\* Paragraph 5.2.1. explains how 'residential properties' are identified for the purposes of calculating the percentage concentration of HMOs.

\*\* Measured from the midpoint of the main external doorway entrance to be used by all tenants as shown on the proposed plans submitted with the planning application.

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<sup>4</sup> Trafford Local Plan: Supplementary Planning Document 3 – Parking Standards and Design – Adopted February 2012

## 5.0 Methodology

### 5.1 Approach to determining a planning application

- 5.1.1. Based on the information provided and on the Council's own records, the Council will calculate the number of HMOs in the relevant area for each individual planning application. The applicant should undertake their own estimate of the number of HMOs to accompany the planning application and provide all their supporting data. There is a variety of evidence sources on the location of HMOs as listed in section 5.2.2, and the applicant is advised to refer to these sources to build a body of evidence which will be assessed as a matter of fact and degree.
- 5.1.2. As part of an application for planning permission, applicants will be required to submit the necessary supporting information set out in the paragraph above as well as the Council's current adopted Validation Checklist. This includes a completed application form, location plan, site plan, existing and proposed floor plans and elevations (if required) and application fee.

### 5.2 How to apply the threshold

- 5.2.1. The percentage concentration of HMOs surrounding the application site will be calculated through three main stages:

#### **Stage 1 – Identify residential properties**

The residential properties identified are those located within the defined area of impact surrounding the application site i.e. the 40 metre radius or 10 nearest properties. The worked examples in Appendix 2 demonstrate this process. It should be noted that these examples are used for illustrative purposes only and do not necessarily relate to existing HMOs or planning applications. 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 at the first stage. Appendix 1 includes a list of properties from Schedule 14 of the Housing Act which will not be identified as residential properties, for example student halls of residence, care homes and children's homes.

#### **Stage 2 – Count HMOs**

Using the HMO sources listed in section 5.2.2, the residential properties identified at stage 1 will be investigated to check whether they are an existing HMO or have HMO consent. All separate units forming part of the sub-divided residential properties (identified at the first stage as a whole property) which are 1 and 2 bed flats will not be investigated.

#### **Stage 3 – Calculate concentration**

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'. The total number of residential properties does not include those properties listed in Appendix 1 and all 1 and 2 bed flats which form part of the sub-divided properties (identified at the first stage). The final figure calculated is rounded up for a percentage of HMOs equal to or greater than decimal point 0.5, and rounded down when less than 0.5.

5.2.2. For the purposes of the threshold, HMOs can be identified from the following sources:

- Trafford Council planning register
- Trafford Council electoral register
- Trafford Council Tax records
- Trafford Council licensing register

5.2.3. The sources listed above are not a conclusive or exhaustive record of all HMOs in the relevant area. There may be existing HMOs which are occupied but unknown to the Council. In particular, on 6<sup>th</sup> April 2010 the Uses Classes Order introduced a class for HMOs to reclassify C3 dwellings to either the new C3 or C4 classes. The reclassification of existing dwellings to C4 use did not require planning permission at that time and therefore will not be registered on the Council's register of planning applications.

5.2.4. These sources will initially provide a reasonable indication of the numbers and location of HMOs in a particular area. Further investigation of individual properties may be required by the Planning Officer to provide greater confidence in the estimate, but it is emphasised that it will not be possible to guarantee a 100% accurate count in all cases. Where there is significant doubt as to whether a property is a HMO, it will not be counted towards the threshold.

### 5.3 The approach to sandwiching

5.3.1. 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 (see worked example 1 in Appendix 2). 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. Subdivided units will be considered on a case by case basis.

### 5.4 Large HMOs (more than 6 occupiers)

5.4.1. Planning applications for the change of use of properties into large HMOs will be assessed using the threshold limit.

5.4.2. Planning permission will be required to change the use of a small HMO to a large HMO, or to intensify the use of a lawful large HMO (even without any physical extension or external alteration to the property) by increasing the number of occupiers. In this instance the threshold limit will not be triggered as the HMO has already been established in the street and, therefore, has no further effect on the concentration of HMOs and balance and mix of households in the local community.

5.4.3. These types of planning applications will be assessed on their own individual merits on a case by case basis against the Council's relevant policies and guidance, including Core Strategy Policies L4 and L7 and Parking Standards set out in the adopted SPD3: Parking Standards and Design. Other impacts will be assessed as set out in the relevant policy text. Large HMOs are generally expected to have a greater impact individually on matters such as residential amenity.

## 5.5 Extensions to existing HMOs

- 5.5.1. When the Council considers a planning application for an extension to an existing lawful HMO, the threshold limit will not be a material consideration as the HMO has already been established in the street and therefore has no further effect on the concentration of HMOs and balance and mix of households in the local community.
- 5.5.2. The HMO does not materially change use within class C4 when intensifying the occupation up to 6 people and therefore only the physical impact of the extension will be assessed in accordance with the Council's relevant planning policies and guidance.
- 5.5.3. The Council does however recognise that the intensification of persons when existing C4 HMOs increase the number of bedrooms and become large HMOs can have a harmful impact on neighbouring occupiers. This is due to increased comings and goings, especially those associated with the independent lifestyle pattern of occupiers living individually of one another.
- 5.5.4. Where the extension would result in an increase of occupiers to more than 6 persons living in the HMO, planning permission must be sought in its own right for a change of use to a large HMO (see section 5.4). The threshold limit will not apply, though other impacts arising from the proposal will be assessed (see relevant policy text) including Parking Standards set out in the adopted SPD3: Parking Standards and Design.

## 6.0 **Regularising established HMOs**

- 6.1 All landlords that operated a small HMO prior to the Article 4 Direction coming into force are encouraged to submit an application for a 'Certificate of Lawful Use' to demonstrate that this can be operated lawfully and to regularise this use.
- 6.2 Subject to examination through the application process, the use of a property as a small C4 HMO occupied on or before the date when the Article 4 Direction became effective, or any HMO demonstrating ten years of continuous occupancy for this purpose at the time of application, will be deemed to be lawful. Satisfactory evidence will be required to demonstrate the lawful occupation of the HMO.
- 6.3 If a landlord does not wish to regularise their HMO, it is strongly recommended that they retain sufficient documentation to demonstrate lawful use as an HMO on the date when the Article 4 Direction became effective or demonstrating ten years of continuous HMO occupancy. This will reduce the owner's risk of the Council taking enforcement action against them.

## 7.0 **Monitoring**

- 7.1 The effectiveness of this SPD will be monitored as part of the Authority Monitoring Report process using information from planning applications and decisions. The 10 year threshold referred to above will be monitored through revisions to Council Tax records and other sources of information highlighted in section 5.2.2. The Council will consider the findings of this monitoring work to determine whether or not to review this SPD.

## Appendix 1 – HMO Definition

1. In broad terms, an HMO under planning legislation is defined as a house or flat occupied by a certain number of unrelated individuals who share basic amenities and is classified by the Uses Classes Order:-
  - Class C4 – between 3 and 6 residents
  - Sui generis (of its own kind) – more than 6 residents
2. For the purposes of Class C4 the occupation of an HMO dwelling has the same meaning as in section 254 of the Housing Act 2004 with exception of section 257 (relating to converted flats) and those buildings listed in schedule 14 (see paragraphs 3 and 4 below). In summary, an HMO is defined as a building or part of a building (i.e. flat) which:
  - is occupied by at least 3 persons not forming a single household; and
  - the HMO is occupied as the only or main residence; and
  - rents are payable or other consideration is provided in respect of at least 1 of those occupying the HMO; and
  - two or more households share one or more basic amenities (or lack such amenities).
3. The meaning of 'basic amenities' is defined under the Housing Act section 254(8):
  - a toilet;
  - personal washing facilities; or
  - cooking facilities.
4. Schedule 14 of the Housing Act includes a list of 'buildings which are not HMOs'. It includes the following types which will not be identified as residential properties when calculating the proportion of HMOs in accordance with the methodology in the HMO SPD:
  - social landlord registered and local authority housing;
  - care homes;
  - bail hostels;
  - children's homes;
  - occupied by students that are managed by an education establishment i.e. halls of residence;
  - occupied for the purposes of religious community whose main occupation is prayer, contemplation, education and the relief of suffering;
  - managed or controlled by 'fire and rescue authority' or 'health service body'.
5. There will be a number of the HMOs identified by the Housing Standards Team in the category specified under section 257 of the Housing Act which do not fall under the planning definition of HMOs and, therefore, cannot be counted towards the threshold.
6. The Council will not count buildings containing '1 or 2 bedroom self-contained flats', as these buildings are unlikely to accommodate the number of individuals which constitute an HMO.

7. For the purposes of defining the occupation of a 'sui generis' HMO dwelling, there is no meaning defined under planning legislation and therefore the Council will assess each case on an individual basis.

## Appendix 2 – Examples for application of policy

### Example 1 – Sandwiching

#### HMOs Restricted due to Sandwiching



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Example 2 – Separating Road

**Sandwiched Property**



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Example 3 – Applying the 40m radius

**Applying the 40 Metre Radius**



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### Identifying 10 Nearest Residential Properties



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## Appendix 3 – Glossary

The definitions contained in this glossary give general guidance only.

Article 4 Direction	An Article 4 Direction is made by the local planning authority. It restricts the scope of permitted development rights either in relation to a particular area or site, or a particular type of development anywhere in the authority's area. Trafford Council has made a Borough-wide Article 4 Direction in relation to permitted development rights for a change of use from a Class C3 (Dwellinghouse) to a Class C4 (small HMO). As a result of this Article 4 Direction, planning permission will be required for this type of development in Trafford.
Communal facilities/space	These are spaces or facilities shared by the tenants, for example; basic amenities (toilet, personal washing facilities, cooking facilities), living rooms, dining rooms, kitchens, gardens, cycle stores, parking spaces, etc.
Curtilage	This comprises of the property and area of land surrounding the property i.e. the garden/grounds.
House in Multiple Occupation (HMO)	A house or flat occupied by a certain number of unrelated individuals who share basic amenities. The property must be occupied as the main residence. There are 2 categories of HMOs under the use classes order; Class C4 otherwise known as a small/medium-sized HMO which is occupied between 3 and 6 residents, and large-sized HMO otherwise known as sui generis (of its own kind) which is occupied by more than 6 residents.
Permitted development rights or rules (PD)	The rules concerning certain types of development that can be carried out without the need for planning permission subject to following any conditions set out in the regulations. This can include changing the use of a building between use classes.
Radius	This is the circular area surrounding the application site where the threshold will be applied. The radius is measured from the midpoint of the proposed main doorway entrance to be used by the future tenants.
Sandwiching	This is the circumstance where there are adjoining HMOs directly on both sides of an existing dwelling. Where properties are separated by a road or where there is a back to back relationship in different streets then the approach will not apply.
Threshold	This is the set limit or level of the concentration of HMOs.