



**Birmingham City Council
Local Plan**

**Development Management in Birmingham
Development Plan Document**

**Houses in Multiple Occupation
Topic Paper**

October 2019

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1. Introduction

- 1.1 This topic paper has been produced to support 'Policy DM11 Houses in Multiple Occupation' proposed in the Publication version of the Development Management in Birmingham Development Plan Document (DMB). The paper provides a summary of the evidence, the reasoning and the justification for the policy criteria set out in Policy DM11.
- 1.2 In short, Policy DM11 seeks to ensure the creation of sustainable communities and good quality living environments. The proposed policy will be used to assess proposals for Houses in Multiple Occupation (HMOs), balancing the contribution that such development will make to meeting housing demand against the potential harm that might be caused by over-concentrations to the character and amenity of the surrounding area.

2. National Planning Policy and Legislation

- 2.1 The National Planning Policy Framework (NPPF) (February 2019) sets out a need to support strong, vibrant and healthy communities by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations. Paragraph 61 states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.
- 2.2 Paragraph 124 says that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Paragraph 127 states 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.
- 2.3 A broad definition of an HMO is a property rented out by at least 3 people who are not from one 'household' (for example a family) but share facilities like the bathroom and kitchen. (Housing Act 2004)
- 2.4 There are two national statutory planning instruments that are relevant to the use of buildings as HMOs; the Town and Country Planning (Use Classes) Order 1987 (as amended) – commonly referred to as the 'Use Classes Order' – and the General Permitted Development Order (GPDO, 2015).
- 2.5 The Use Classes Order defines two different categories of HMO as follows:
- Smaller HMOs that contain between 3 and 6 people who are unrelated to each other. These are identified under use class C4.

- Larger HMOs containing more than 6 unrelated people, which are identified as a 'sui generis' use.
- 2.6 The GPDO provides permitted development rights to convert ordinary family housing (C3 use class) to small C4 HMO use without the need for planning approval. Larger sui generis HMOs on the other hand will always require planning approval to be created from either C3 housing or any other land use.

3. Local Planning Policy

Birmingham Development Plan (January 2017)

- 3.1 With Birmingham's population projected to grow by 156,000 people between 2011-2031, the Birmingham Development (BDP), adopted in January 2017 provides the spatial strategy to support the sustainable growth of the city. The overall levels of growth required are 51,100 new homes (including the Langley Sustainable Urban Extension); two Regional Investment Sites of 20 and 25 hectares and a 71 hectare employment site at Peddimore; a minimum 5 year reservoir of 96 ha of land for employment use; about 350,000 sq. m of comparison retail development and a minimum of 745,000 sq. m of office development
- 3.2 In terms of housing and neighbourhoods, the BDP contains policies which seek to create sustainable, mixed and balanced communities (Policies TP27 and TP30 of the BDP) and prevent the loss to other uses of housing which is in good condition or could be restored (Policy TP35). The BDP also requires all development to achieve high quality design contributing to a strong sense of place (Policy PG3).
www.birmingham.gov.uk/plan2031

Saved Policies of the Unitary Development Plan (March 2005)

- 3.3 The saved Unitary Development Plan (UDP) policies contains a specific policy on HMOs (paras. 8.23-8.25), setting out the criteria against which planning applications will be determined, including taking into account the cumulative effect of such uses upon the residential character and appearance of the area.

Houses in Multiple Paying Occupation

8.23 This policy applies to dwellings which are either let in one or more separate tenancies, or are occupied by persons who do not form a single household.

8.24 The following criteria will be referred to in determining planning applications:

- *The effect of the proposal on the amenities of the surrounding area, and on adjoining premises;*
- *The size and character of the property;*
- *The floorspace standards of the accommodation;*
- *The facilities available for car parking;*

- *The amount of provision in the locality.*

8.25 The following guidelines will also apply:

- *Generally, the use of small terraced or small semi-detached houses for multiple paying occupation will cause disturbance to the adjoining house(s) and will be resisted. The impact of such a use will depend, however, on the existing use of adjoining properties and on the ambient noise level in the immediate area.*
- *Where a proposal relates to a site in an area which already contains premises in similar use, and/or properties converted into self-contained flats, and/or hostels and residential care homes, and/or other non-residential uses, account will be taken of the cumulative effect of such uses upon the residential character and appearance of the area. If a site lies within an Area of Restraint identified in chapters nine to twenty-one or in Supplementary Planning Guidance, planning permission may be refused on the grounds that further development of such uses would adversely affect the character of the area.*

Planning policy for the Article 4 Direction Area of Selly Oak, Harborne and Edgbaston (November 2014)

- 3.4 An Article 4 Direction was introduced within designated areas of Selly Oak, Edgbaston and Harborne Wards in November 2014. In this area a planning application must be submitted to the City Council for conversion of a single dwellinghouse (C3 Use) to small HMO (C4 Use 3-6 person HMO) or a large HMO (Sui Generis Use 6+ person HMO).
- 3.5 The planning policy within the Article 4 Direction Area was adopted in November 2014 and describes the “high concentrations in parts of Selly Oak ward [as] hav[ing] led to a significant loss of amenity for residents”. The policy subsequently aims not only to manage the growth of new HMOs but also “avoiding over-concentrations occurring”. The full policy document is attached as Appendix 7 to this paper, but the key policy criteria is set out below:
- “Conversion of C3 family housing to HMOs will not be permitted where there is already an over concentration of HMO accommodation (C4 or Sui Generis) or where it would result in an over concentration. An over-concentration would occur when 10% or more of the houses, within a 100m radius of the application site, would not be in use as a single family dwelling (C3 use). The city council will resist those schemes that breach this on the basis that it would lead to an over-concentration of such uses.”*
- 3.6 The assessment of the proportion of households that are known HMOs is based on:
- Council tax records – students in full time education can apply for exemption from council tax and this data is used to identify properties;

- Properties licensed as HMOs – mandatory licensing of HMOs applies currently to buildings of 3+ storeys and occupied by 5+ people
- Properties with C4 or SG HMO planning consent or issued with a certificate of lawful development.

Wider Selly Oak Supplementary Planning Document (2015)

- 3.7 The Wider Selly Oak SPD sets out a vision for the transformation of the wider Selly Oak area, identifies key development opportunities/ sites and provides guidance to assist in the determination of planning applications. The overall housing objective of the SPD in relation to housing is to *“maintain a balance of housing provision, a sustainable and cohesive housing market, and secure a high level of management of the residential environment.”*
- 3.8 The SPD recognises the proliferation of shared/multi occupied housing *“causes a number of other concerns including strains upon local amenity (noise, car parking and litter) and local services (e.g. refuse collection, pest control, environmental health etc). In addition there are issues with the management of the area and poor upkeep of properties. Many property owners build rear or loft extensions to maximise occupancy levels, further exacerbating the concerns.”* The SPD states that *“Proposals to bring HMO back into family accommodation will therefore be encouraged.”*
- 3.9 In respect to existing housing (and notwithstanding Permitted Development Rights), the SPD says that *“extensions etc., must be respectful of the character of the property itself, its neighbours and its visual impact on the area.”*
- 3.10 The SPD can be found viewed here:
https://www.birmingham.gov.uk/downloads/download/284/the_wider_selly_oak_supplementary_planning_document

Publication version of Development Management in Birmingham Development Plan Document (DMB) (October 2019)

- 3.11 The saved UDP policies will be replaced by the DMB, once adopted. The DMB Preferred Options Document was subject to public consultation in January to March 2019 and included a policy (DM10) in relation to HMOs and non-family residential uses. The aim of the policy is to ensure that new development supports successful communities and to prevent harmful concentrations of HMOs arising. This full DMB can be viewed here: www.birmingham.gov.uk/dmb
- 3.12 A total of 50 responses were received on Policy DM10 ‘Houses in Multiple Occupation and other non-family residential uses’, each making a number of individual points. The majority were generally in support of the policy. The following detailed comments were made:
- General support for the policy and a city wide Article 4 Direction

- HMO concentration over 10% can cause many problems such as ASB, parking disputes, too many vulnerable adults in an area and ultimately a breakdown in community cohesion.
- Steps should be taken to reduce HMO concentrations
- Residential areas suffer from poorly managed HMO and student lettings
- Policy should do more to preserve the residential amenity and character of an area
- Policy should ensure maintenance of 'sustainable neighbourhoods'
- Policy should play a part in reducing crime, the fear of crime and ASB which are a key concern of Birmingham residents
- Should have a blanket ban/ moratorium on further HMOs in areas which already have a high proportion of HMOs
- HMO leads to high numbers of cars, refuse generated, transience
- The National HMO Lobby recommends that Development Management in Birmingham considers an additional Policy resisting the development of HMOs within a ward, where the total number of HMOs in the ward exceeds 10% of the total number of residential properties in that ward.
- Should encourage landlords to be responsible of property and consider neighbouring amenity.
- Needs to have a much firmer clearer and proactive approach
- Exceptional circumstances clause is fatalist and subjective, potentially creating a loophole for additional HMOs in certain areas
- The opportunity should be taken to include local information to identify HMOs, such as information from individual residents and from residents' and community organisations

3.13 Following analysis of the comments, the policy was refined and amended to include further detail on the criteria relating to adequate living space and the quality of accommodation. Residential conversions and specialist accommodation development was separated out from DM10 into a separate policy. The policy was renamed DM11 Houses in Multiple Occupation in the Publication version of the DMB, which was approved by Cabinet on 29 October 2019 for statutory consultation. The consultation on the Publication DMB is being undertaken from early January 2020 for a 6 week period. The full document can be viewed here: www.birmingham.gov.uk/dmb

Article 4 Direction

- 3.14 An Article 4 Direction was introduced within designated areas of Selly Oak, Edgbaston and Harborne Wards in November 2014 and has been effective in managing the number of HMOs in this area.
- 3.15 In October and November 2018, the Cabinet Member for Housing and Neighbourhoods and a number of local councillors, through meetings with planning officers, called on the authority to take action to limit the growth of HMOs and introduce further Article 4 Directions. A city wide mapping exercise was carried out to

identify the number and location of HMOs across the city. The results are summarised in section 6 below.

- 3.16 On 14 May 2019 the Council's Cabinet made a decision, having considered alternative options, to introduce a city-wide Article 4 Direction, which will remove permitted development rights to change from a C3 family dwellinghouse to a C4 small HMO to ensure that the development of HMOs can be better managed. The Cabinet report and appendices which includes a Technical Paper setting out the evidence and justification for the proposed approach can be found in Appendix 1.
- 3.17 To avoid duplication in coverage, Cabinet also approved the cancellation of the existing direction covering Selly Oak, Harborne and Edgbaston, which came in to force on 30 November 2014. This existing direction also removes permitted development rights for the change of use of C3 houses to C4 houses in multiple occupation (HMOs).
- 3.18 A 6-week public consultation was undertaken on the city-wide Article 4 Direction between 6 June and 18 July 2019. A total of 251 individual comments were received in response to the publicity period. 151 (60%) of these comments expressed support for the city-wide Article 4 Direction, 89 (36%) were opposed to it and 10 (4%) did not express a view. A petition was also received in support of the city-wide Article 4 Direction which was signed by 323 individuals. The main issues raised by those who support the city-wide direction are summarised as follows:
- Low levels of maintenance of HMO properties, resulting in poor quality living environments for occupants and neighbours;
 - High amounts of litter and rubbish generated due to people occupying HMO properties;
 - Noise generated from HMO properties;
 - Incidences of crime and anti-social behaviour associated with some occupants of HMOs;
 - Problems caused by parking and subsequent impacts on highway safety;
 - Transient population and less community cohesion.
- 3.19 The main issues raised by those who object to the city-wide direction are summarised as follows:
- The effect it will have on limiting the availability of different types of housing in the city;
 - Knock-on effects that it will have on the affordability of housing and potential increases in homelessness as a result;
 - That it will discriminate against students and younger age groups, who typically occupy such properties;
 - That the case put forward to justify the Article 4 Direction was based on anecdotal and not factual evidence;
 - That other mechanisms should be used instead to control the negative impacts associated with HMOs (e.g. Anti-Social Behaviour Orders and enforcing HMO Management Regulations)

- 3.20 Many comments also raised concerns about types of accommodation that fall outside the scope of the Article 4 Direction, particularly properties managed by Registered Providers which are not classed as HMOs under national legislation.
- 3.21 The outcome of the consultation was reported to Cabinet on 17 December 2019 and informed Cabinet's decision to confirm that the city-wide Article 4 Direction will come into force on 8 June 2020.
- 3.22 The effect of the Article 4 Direction is that this will require developers of new small C4 HMOs to submit a planning application for their conversion, in a way that is consistent with the requirements for larger (Sui Generis) HMOs.

Community Cohesion Strategy

- 3.23 It is recognised that shared housing fulfils a need for much needed housing accommodation in the city, particularly for students and residents requiring lower cost housing. 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.
- 3.24 The planning system can assist in achieving a mix of households within the city'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 city.
- 3.25 The Strategy recognises that areas with heavily concentrated numbers of HMOs can challenge the stability of communities due to high turnover rates and poor housing conditions.

4. HMO Licensing

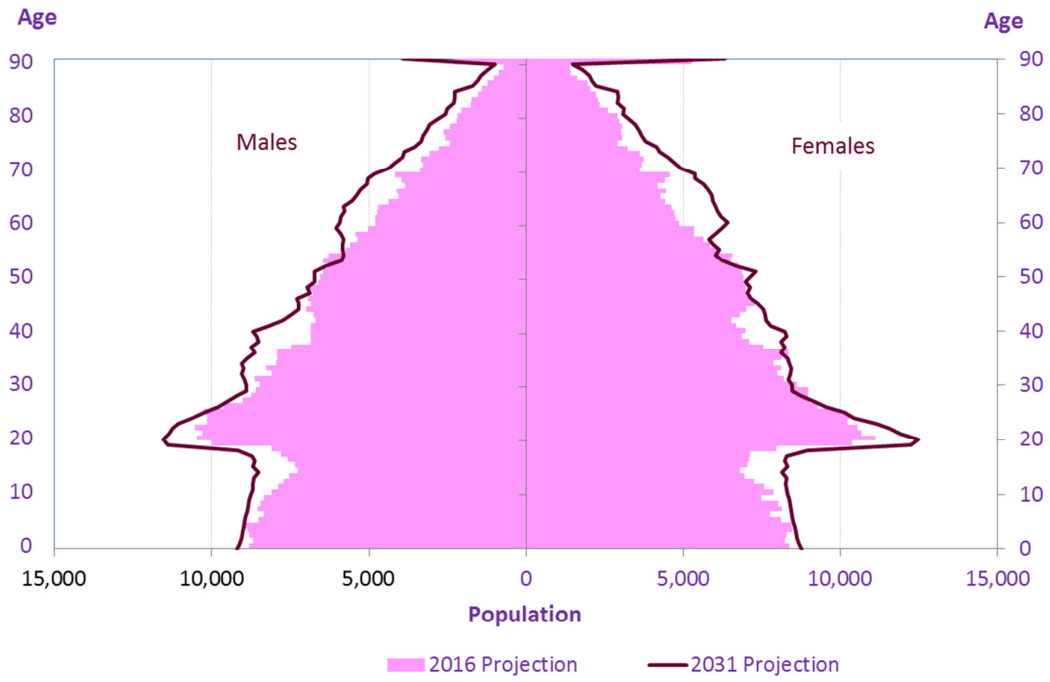
- 4.1 The Housing Act 2004 introduced mandatory licensing for HMOs of 5 or more people in properties of 3 or more storeys sharing basic amenities. Birmingham's public register of approved HMO licences currently contains around 1,865 records.
- 4.2 On 1 October 2018, Government extended the scope of mandatory HMO licensing by removing the storey-height limit. Therefore, properties with 5 or more people in properties of 1, 2 and 3 or more storeys will require a licence, including properties above commercial buildings. This will enable more comprehensive identification of the location and numbers of HMOs in the City.
- 4.3 In addition, the Government has introduced regulations relating to minimum room sizes and refuse disposal and storage. For HMO licensing purposes Birmingham has adopted the minimum room size of 6.51 sq.m. for a single room where there is a separate communal living room of sufficient size for the number of occupiers in the HMO. The minimum room size for a double room in the regulations is set out as 10.22 sq.m. Birmingham will continue to adopt a minimum room size of 11sq.m. for a double room where there is a separate communal living room of sufficient size for the number of occupiers in the HMO. Birmingham's City Council has produced a guidance document which sets out the minimum required room sizes as well as minimum provision of toilet, bathroom and kitchen facilities, depending upon the type of property in question. It also contains standards relating to the provision of adequate heating, and information about the management regulations.
https://www.birmingham.gov.uk/downloads/file/1630/houses_in_multiple_occupation_hmo_property_and_management_standards
- 4.4 Under the Housing Act 2004, local authorities currently have powers to introduce selective licensing of privately rented homes to address problems in their area, or any part of them, caused by low housing demand and/or significant anti-social behaviour. Local authorities are required to obtain confirmation from the Secretary of State for any selective licensing scheme which would cover more than 20% of their geographical area or would affect more than 20% of privately rented homes in the local authority area. Birmingham City Council is currently considering options to introduce a city wide approach for Selective Licensing.

5. The Birmingham population

Demographic changes

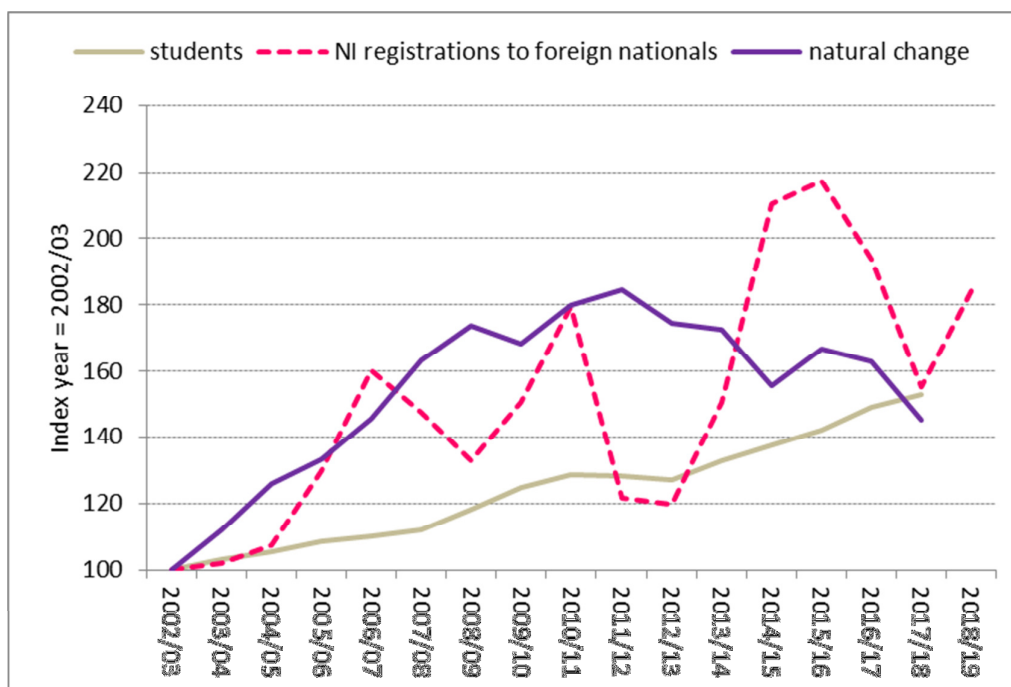
- 5.1 Between 2001 and 2011 Birmingham's population increased by 9.1% to 1,073,000, a faster rate of growth than was experienced in the rest of the West Midlands or across the country as a whole. The young age structure of the City's population and the high proportion of young people means that growth looks set to continue. In addition, Birmingham is an entry point for international migration providing a further source of growth.
- 5.2 The 2016 ONS projections estimate Birmingham's population to be at around 1,246,800 in 2031; a projected growth of 172,500 (16.1%) since 2011. Much of the change is due to natural growth (difference between births and deaths) and international migration. Figure 1 overleaf shows Birmingham's 2016 and projected 2031 age structure. The current age structure (pink shading) shows that there are fewer people in the older age groups than in the younger, illustrating Birmingham's youthful structure. The outer line represents Birmingham's age structure in 2031. Birmingham's age structure remains young with 45% of residents projected to be under 30. Increases are expected among older children, teenagers and the ages people are typically at university. There will also be substantial increases expected among those aged 60 years and over.
- 5.3 The bulge around the early 20-year olds is due largely to students coming to the city's Universities. Figure 2 shows the increase in full-time students registering on higher education courses. There were 50% more course registrations in 2018/19 compared with 2002/3. National insurance number registration to foreign nationals living in Birmingham show that two-thirds of migrants are aged 18 to 34. National Insurance number registrations have been generally increasing (Figure 2). There were, however, noticeable dips following the 2010 financial crisis and the 2016 EU referendum. The broadening of the pyramid base is due to high numbers of births in recent years. Figure 2 shows that each year there has been consistently more births than deaths in Birmingham. Natural change is currently on a downward trajectory following a peak in 2011/12; nevertheless, natural change in 2018/19 is over 40% higher than it was in 2002/03.

Figure1: 2016 and projected 2031 age pyramid - Birmingham



Source: ONS, Crown Copyright 2019

Figure 2: Index of change in Birmingham



Source: ONS, Crown Copyright 2019

- 5.4 The Government commissioned report into HMOs and possible solutions, defines the profile of HMO occupiers as —young and single forming households and tend to be transient, only living in the premises for a short time. They tend to be low-income households, mainly because they are economically inactive, full-time students or working in low-paid jobs.”¹
- 5.5 The English Housing Survey PRS Report 2017-18 showed that shared households, with lone persons sharing with others, were more common among private renters (11%) than social renters or owner occupiers (both 2%). The higher prevalence of shared households is likely related to the younger age profile in this tenure.²
- 5.6 An increasing number of Birmingham’s residents are now renting their homes from private landlords. Typically, these rented units take the form of bedsits and shared homes and are therefore popular with younger residents and those with lower incomes.

Table 1: Private rented properties in Birmingham

	2012	2013	2014	2015	2016	2017	2018
Number of private rented properties:	82,542	80,442	82,338	86,946	90,301	93,540	96,961
Percentage of	19.43%	18.87%	19.25%	20.24%	20.88%	21.54%	22.17%

¹ CLG (2008) Evidence Gathering- HMOs and possible planning responses

² English Housing Survey PRS Report 2017-18

overall dwelling stock:							
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Source: ONS, [Subnational dwelling stock by tenure estimates, England, 2018](#).

- 5.7 The number of households in the private rented sector in the UK increased from 2.8 million in 2007 to 4.5 million in 2017, an increase of 1.7 million (63%) households. Younger households are more likely to rent privately than older households; in 2017 those in the 25 to 34 years age group represented the largest group (35%). Households in the private rented sector are getting older; between 2007 and 2017, the proportion of household reference persons aged 45 to 54 increased from 11% to 16% while those aged 16 to 24 dropped from 17% to 12%.³

Students

- 5.8 Birmingham has five major universities, and these are important assets for the city in terms of providing quality higher education, research and innovation and acting as major employers. In addition, Birmingham has six large further education colleges for students over 16 years of age. The City Council's vision for the future is for the city's universities and colleges to flourish and grow. Student accommodation plays a major role in the university experience and in meeting housing need.
- 5.9 Overall demand for places at Birmingham's universities remains high with the number of applications for a place on an undergraduate course far exceeding the number of places available (UCAS data 2018). Over the last 3 years there has been a 4.4% increase in the number of full and part time students studying across the 5 main universities in Birmingham. Some of the universities forecast a growth in demand for student accommodation over the next 10 years and have ambitions to grow student numbers.

Table 2: Full and Part Time Students in the 5 main universities in Birmingham

Full and part time	2015/16	2016/17	2017/18
Aston University	12493	13610	14615
Birmingham City University	24064	24130	24575
The University of Birmingham	33832	34836	34916
University College Birmingham	5025	4933	4944
Newman University	2810	2829	2759
Total	78224	80338	81809

Source: HESA

- 5.10 According to the latest HESA data there were 67,890 full-time and 13,919 part-time students studying at the city's five main universities. Of the total number of full-time students: 25% lived in Purpose Built Student Accommodation (PBSA); 26% in HMOs/ other rented accommodation; 27% lived with parents/ guardians and 17% lived in their own home.

³ ONS UK Private Rented Sector 2018

5.11 There has been a steady increase in all types of accommodation occupied by students, but the most significant increases have been in those living in private sector PBSA and HMOs/ other accommodation. Students living in HMOs/ other rented accommodation have fluctuated over the last 5 years with a 6% decrease in 2017/18 from 2016/17. However, between 2007/8 and 2017/18 there has been an overall increase of 321%.

Table 3: Where students lived (HESA Data)

Term time accommodation	07/08	08/09	09/10	10/11	11/12	12/13	13/14	15/16	16/17	17/18	% difference
Provider maintained property	9993	7298	8819	8087	9258	9394	8875	12587	10562	6954	-70%
Private-sector halls	1444	2563	3243	3819	3747	4350	6446	5429	5553	9918	686%
Parental/guardian home	14021	10645	11687	12801	12314	13721	14820	18099	17500	18215	130%
Own residence	6410	6526	7450	5545	5646	6620	6455	17514	10517	11263	234%
HMO/Other rented accommodation	4805	10687	9579	12660	14662	14980	16327	15280	16430	15433	321%
Other	877	897	836	1018	1297	1079	982	2171	1767	2035	232%
Not in attendance at the provider	1085	942	763	956	1070	1035	965	1425	1308	2194	202%
Total	38635	39558	42377	44886	47994	51179	54870	72505	63637	66012	171%

5.12 It is difficult to estimate the number of HMOs occupied specifically by students in the city. HESA 2017/18 data tells us 17,468 students lived in HMOs and other rented accommodation. Using Student Council Tax exemptions (excluding PBSA) there is an estimated 4,491 properties in the city which are exempt from Council Tax for student purposes. If an average ratio of 5 bedspaces per property is applied, there are potentially 22,455 bedspaces across the city. This could indicate either an over-supply of HMO bedspaces or the assumed number of bedspaces per HMO is inaccurate. The majority of these are concentrated in the Bournbrook area but there are also concentrations in North Edgbaston and Harborne, Stirchley and Selly Oak.

5.13 Birmingham City University and University of Birmingham have forecasted a growth in demand for student accommodation over the next 10 years. Overall, demand for accommodation from students has increased as evidenced by the number of students enrolled on full time courses at the universities and the returns provided by the universities to HESA in relation to where their students resided during term time. Demand is set to increase over the next 10 years if the universities' future growth plans are implemented. The report to Planning Committee 21 November 2019 on Student Accommodation Supply and Demand can be viewed here: <https://birmingham.cmis.uk.com/birmingham/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/11079/Committee/4/Default.aspx>

6. HMO numbers and distribution

6.1 For the purposes of the work undertaken to investigate options around further Article 4 Directions in the city, a city-wide assessment of the amount and proportion of houses that are known as HMOs was undertaken in February 2019 using the following data sources:

- Council tax records – properties with student exemptions (excluding purpose built student accommodation and self-contained flats)
- Licensing records – properties licensed as an HMO
- Planning records – properties with C4 or Sui Generis planning consent or issued with a Certificate of Lawful Development

6.2 In total, 6,128 individual HMOs were identified across the city. Of these, 1,082 have been identified from the HMO licensing data, 443 from previous planning approvals for the creation of new HMOs and 3,594 have been identified from council tax records.

Distribution of HMOs

6.3 The map on page 9 of the Technical Paper appended to the 14 May Cabinet Report (Appendix 1) shows the distribution of HMO properties across the city that have been identified through the mapping exercise, categorised by the data sources described above. It is intended that this mapped data will become a 'live' dataset which is kept continually up to date. The map shows a snapshot of the HMOs identified as of 21st February 2019.

- 6.4 For the purposes of the exercise the City Centre was excluded due to the high density pattern of development in the area which in recent years has predominantly comprised of 1 and 2 bedroomed apartments. Such properties are not capable or appropriate to be converted to HMOs.
- 6.5 The map shows that overall there is a reasonably even distribution of HMOs across the city, with particular concentrations in and around certain areas such as Bournbrook, Selly Park, North Edgbaston, Handsworth, Lozells, Erdington and Stockland Green. The existing Article 4 direction is also shown on the map and the high concentration of HMOs within that area is clearly evident. Only the north of the city has a relatively sparse distribution of HMOs.
- 6.6 The maps on pages 10-12 of the Technical Paper appended to the 14 May Cabinet Report (Appendix 1) focus in on the areas of the city where greater concentrations of HMOs have been identified. The buffers shown have been drawn by applying a 100 metre buffer around each individual HMO and then calculating the percentage of the housing stock that are HMOs within that buffered area. Areas shown in red already exceed the 10% threshold proposed in policy DM11 while areas shown in yellow are below, but close to exceeding the 10% threshold.
- 6.7 The maps illustrate that HMOs are often focused on specific locations such as town and district centres and transport hubs, but beyond such locations their distribution is reasonably dispersed.
- 6.8 The implication of these localised concentrations is that if smaller area based Article 4 directions are applied to them, then this may not help to manage and address the impacts arising from a high proportion of HMOs that may be distributed across a wider area. In particular, a high wider distribution may have a cumulative impact on an area's transport, community and other infrastructure, due to the higher population numbers being accommodated within the HMOs.
- 6.9 The data also shows a trend that the growth of new HMOs is spreading out to less saturated wards in the city.

7. HMO planning applications and appeals

- 7.1 A total of 341 planning applications for new and expanded HMOs and lawful development certificates have been received over the past 10 years (2009-2019).

Table 4: Applications received between 2009-2019

Year received	Within Article 4 Direction Area	Outside Article 4 Direction Area	Total number of applications
2009	N/A	N/A	0
2010	N/A	N/A	1
2011	N/A	N/A	4
2012	N/A	N/A	3
2013	N/A	N/A	2
2014	4	6	10
2015	6	15	21
2016	6	28	34
2017	16	53	69
2018	36	58	94
2019	53	50	103
Total received	121	220	341

- 7.2 Of these, 177 applications were approved and 117 refused. This represents a 60% approval rate across the city. Within the Selly Oak Article 4 Direction, the proportion of approvals was 54%.

Table 5: Planning application decisions 2009-2019

	Approved	Refused	Section 191/192 Permission not required	Section 191/192 Certificate required
Within Article 4 Direction Area	23	18	4	3
Outside Article 4 Direction Area	154	99	34	6
Total	177	117	38	9

Table 6: Planning appeal decisions 2009-2019

	Allowed (unconditional)	Allowed (conditions)	Dismissed	Total
Within Article 4 Direction Area	0	0	2	2
Outside Article 4 Direction Area	1	12	4	17
Total	1	12	6	18

- 8.3 Appeal decisions supports the effectiveness of the existing Article 4 Direction, with no appeals allowed within the area in the past 10 years. Outside, there have been a greater proportion of appeals allowed than dismissed. The Council's experience in applying the planning policy in the Selly Oak Article 4 Direction area shows that inspectors have supported 10% as a reasonable threshold as a 'tipping' point when issues arising from concentrations of HMOs become harder to manage and a community or locality can be said to tip from balanced to unbalanced. Appendix 3 contains a number of relevant appeal decisions within Birmingham.
- 7.4 Through the consultation on the emerging Development Management in Birmingham DPD, the comments received during the publicity period on the proposed City Wide Article 4 Direction, and the number of Ward Committee Meetings where officers have been asked to attend in relation to the issue of HMOs, it is evident that there are concerns about the negative impacts of introducing a new HMOs. The main concerns raised relate to:

- the negative impacts on amenity from the transient nature of the occupiers living within a family home orientated community and upsetting the balance and mix of the households within the community;
- the disturbance arising from the intensification of use of a home by the greater comings and goings associated with occupiers living independently of each other in comparison to a typical a family unit;
- and the greater demand on street parking in neighbourhoods with heavily parked streets where occupiers of HMOs would independently use their own vehicles, leading to a negative impact on amenity by the displacement of street parking available for local residents within close walking distance of their homes.

7.5 The Council's policy regarding HMOs has also been considered in a scrutiny meeting of the Homes and Neighbourhoods Overview and Scrutiny Committee on 26 February 2018.

8. Impacts of over-concentrations of HMOs

8.1 HMOs are an increasingly popular part of the housing market within Birmingham. As rooms can be rented individually they provide affordable accommodation, particularly for students, young people and those on lower incomes. Whilst the need for this type of accommodation is not in dispute, HMOs tend to be grouped together in certain areas, becoming the dominant type of housing which can lead to social and environmental problems for local communities.

Evidence Gathering – Housing in Multiple Occupation and Possible Planning Responses (CLG, 2008)

8.2 A report by Ecotec that was commissioned by the Government entitled “Evidence Gathering – Housing in Multiple Occupation and Possible Planning Responses” (CLG, 2008) has studied the impact of HMOs on the character and amenity of local communities. In summary, the Ecotec report stated that the poor management of rented HMO accommodation can lead to amenity and character issues which directly affect a local community. These issues can include: poor refuse management; on-street parking pressure; noise and anti-social behaviour; high property turnover; neglected gardens and lack of maintenance to housing stock.

8.3 The wider impacts on infrastructure and services identified by the Ecotec report, that are created by a high concentration of HMOs and arising from the changing demography of the neighbourhood are:

- decline in owner occupied stock;

- increased population densities can place a strain on existing services, refuse disposal and street cleansing;
- reduction in demand for some local services and underuse of community facilities;
- the decline of local school enrolment;
- restructuring of retail, commercial services and recreational facilities to suit the lifestyles of the predominant population. e.g. increased demand for other services such as takeaway food, bars.
- imbalanced and unsustainable communities;
- negative impacts on the physical environment and streetscape;
- pressures upon parking provision;
- increased crime and anti-social behaviour, fear of crime, noise and nuisance;

8.4 The Ecotec report highlights that a high demand for private sector renting can lead to positive regeneration and economic benefits in some local neighbourhoods, particularly in areas where low demand has led to derelict and vacant properties. This can introduce new life and population back into a neighbourhood, and the demand for private rented accommodation can lead to improvement of the existing housing stock and bring properties back into use. However, in the long term, the decline of local services (caused by reduced demand) from a high concentration of HMOs, which serve the permanent residents and families living in the local area, will not sustain a balanced and mixed community.

8.5 The government has also recognised that a high concentration of HMOs can sometimes cause problems. DCLG planning guidance circular 08/2010 states that this is so “especially if too many properties in one area are let to short term tenants with little stake in the local community”.

Preferred Options DMB Consultation Responses

8.6 The DMB Preferred Options Document was subject to public consultation in January to March 2019. The responses made specifically in relation to the impact of HMOs of neighbourhoods are set out in paragraph 3.8 of this document.

Site visits

8.7 As part of the research for this paper, officers undertook field visits to the many areas of the city illustrated above where higher proportions of HMOs are evident. This has helped to identify the following impacts, which appear to be linked to a prevalence of HMOs in an area;

- More vehicles parked in front of properties and on streets
- Some HMOs were poorly maintained, resulting in a degradation of the quality of the local environment and raising questions about the quality of the living environment for the inhabitants
- Higher numbers of wheelie bins cluttering streets and pavements

- Property frontages cluttered with 'rooms to let' signs, multiple satellite dishes, electricity and gas meters, doorbells and occasionally multiple front doors.
- 8.8 The photographs in Appendix 4 demonstrate examples of locations where such impacts were observed.
- 8.9 Such impacts appeared to be magnified where an area also contained large concentrations of self-contained flats and other types of communal accommodation. In addition to these more immediate impacts, a high concentration of HMOs can also have wider impacts on the surrounding area which may be less obvious, such as;
- Increased traffic and demand for public transport
 - More pressure on community facilities and infrastructure
 - Less families, resulting in reduced demand for school places and undermining the viability of local schools
 - Increased levels of crime and fear of crime
- 8.10 It must be noted that not all of the impacts of HMOs will be negative and maintaining an appropriate proportion of HMOs in an area will provide more mixed and diverse communities, increase custom for local businesses, provide a greater local workforce and provide a greater choice of accommodation for local residents.
- 8.11 The impacts and benefits of HMOs will however become more manageable through the application of the Article 4 Direction and the policy approach proposed within Policy DM11 of the DMB.
- 8.12 The evidence and data gathering that has been undertaken to identify the distribution of HMOs in the city will continue to be kept up to date and it will therefore be possible to monitor how the prevalence of HMOs across the city will change in the future. This monitoring will include reviewing the status of locations that currently exceed or come close to the 10% threshold and identifying locations where new concentrations of HMOs have occurred.

Impact on amenity

- 8.13 Proposed Policy DM11 seeks a standard of development that maintains or enhances the general amenity of an area and provides a safe and attractive environment for all, including neighbouring residents and occupants of HMOs themselves.
- 8.14 As noted above it is recognised, both nationally and locally, that concentrations of HMOs can impact upon residential amenity and can, in some cases, create particular issues with regard to:
- increased levels of crime and the fear of crime;
 - poorer standards of property maintenance and repair;
 - littering and accumulation of rubbish;
 - noises between dwellings at all times and especially at night;
 - decreased demand for some local services;
 - increased parking pressures; and

- lack of community integration and less commitment to maintain the quality of the local environment.
- 8.15 All the above can potentially have negative impacts on the mental health and wellbeing of individuals living within HMOs and their neighbours, as well as the physical environment in which they live. It is also important to note that occupants of HMOs, such as students, are often the victims of crime or suffer from a poor quality environment themselves.
- 8.16 In assessing planning applications for HMOs, proposed Policy DM11 can help to ensure that the change of use will not be detrimental to the overall residential amenity of the area.

Impact on mixed and balanced communities

- 8.17 There is no planning definition of a 'sustainable or 'balanced community'. The Sustainable Communities Plan (ODPM, 2003) defined it as "places where people want to live and work, now and in the future. They meet the diverse needs of existing and future residents, are sensitive to their environment, and contribute to a high quality of life. They are safe and inclusive, well planned, built and run, and offer equality of opportunity and good services for all."
- 8.18 It can be considered as a community that is not dominated by one particular household type, size or tenure. The National HMO Lobby suggest a balanced community is a "community which approximates national demographic norms". The National HMO Lobby suggests that 10% of properties or 20% of the population is the 'tipping-point' for HMO-dominance in a neighbourhood. (See Appendix 8: National HMO Lobby, Balanced Communities and Studentification, 2008).
- 8.19 The average household size in England across all tenures is 2.4 persons per household. In an HMO there is likely to be a minimum of 3 persons per household rising to 6 residents living in a small/ medium HMO and 7 or more living in a large HMO. This would suggest the population size will be higher than average within a community of a high concentration of HMOs. Population density would therefore be greater. Those living in HMOs also tend to be younger and transient.
- 8.20 As a result of this contrast in the mix of groups and population, it is considered that a high concentration of HMOs will dilute the mix of groups and the proportion of owner occupier households in a community. This can lead to an imbalanced community and the associated impacts described in paragraph 8.2 above.
- 8.21 A number of useful precedents have been set by other local planning authorities. Analysis of the thresholds and percentage limits that other authorities have used to manage HMOs in their areas has been undertaken to inform the selection of a policy approach for Birmingham. (Appendix 5).

Loss of family housing

- 8.22 Policy PG3 Place making in the BDP states that, amongst other things, new development should support the creation of sustainable neighbourhoods. This is

supported by Policy TP27 Sustainable neighbourhoods and TP30 The type, size and density of new housing, which requires new housing provision to be made in the context of creating sustainable communities, which are characterised by a wide choice of housing sizes, types and tenures to ensure balanced communities catering for all incomes and ages.

- 8.23 The appropriate proportionate mix of housing has been informed by the 2013 Strategic Housing Market Assessment (SHMA), which is summarised in a table on p113 of the BDP (and reproduced below). The SHMA identifies an increased need for three-bedroom dwellings and notes that high proportions of three to four person households are inadequately housed.

Table 7: BDP/ Strategic Housing Market Assessment Summary Housing Mix (2013)

Tenure	% of Dwellings				
	1 Bed	2 Bed	3 Bed	4+ Bed	Total
Market	8.1	14.9	17.3	21.9	62.2
Shared ownership	1.1	1.2	2.2	0.3	4.8
Affordable rent	3.7	11.6	5.3	0.9	21.6
Social rent	1.7	3.0	1.6	5.0	11.4
%	14.6	30.8	26.3	28.1	100

- 8.24 Recent appeal decisions relating to the conversion of existing C3 dwellinghouses into HMOs and self-contained flats have supported the Council's policies (TP27 and TP30) and considered the impact of proposals on the city's stock of family sized housing to be detrimental. (See Appendix 3 HMO Appeal Decisions).

9. Evidence for policy approach

- 9.1 Given the evidence that the demand for HMOs will increase and the impacts identified as a result of existing over-concentrations of HMOs, the Council wishes to ensure that demand can be met without elevating the issues highlighted in this paper.

This section presents the evidence and justification for the policy approach proposed by DM11 Houses in Multiple Occupation specifically in relation to:

- The 10% threshold and radius
- The sandwiching and continuous frontage criteria
- Space standards

The 10% threshold

- 9.2 HMO concentration is commonly expressed as a percentage of the total number residential properties within a certain area. A high concentration or percentage of HMOs can lead to an imbalance in the community.
- 9.3 Whilst there is no formal definition of what constitutes a balanced community, recently, there have been attempts to establish what constitutes a large HMO proportion and the threshold at which a community can be said to be or becoming imbalanced. Useful precedents have been set in a number of local authorities. Appendix 5 shows the HMO policies adopted by some of these authorities.
- 9.4 The HMO Lobby proposed that when 10% or more of housing types are HMOs, a community becomes unsustainably unbalanced and the risk of associated effects catalysed by HMO over-concentrations become possible. The HMO Lobby believes 10% to be the tipping point as this represents a standard deviation away from

assumed demographic norms of sustainable neighbourhoods, derived from national statistics.⁴

- 9.5 Following a review of thresholds used in other local authorities (Appendix 5) and best practice advice, a 10% threshold within a 100m radius of an application for HMO development is considered a reasonable approach to adopt. It is considered that this represents a reasonable threshold as a 'tipping' point when issues arising from concentrations of HMOs become harder to manage and a community or locality can be said to tip from balanced to unbalanced.
- 9.6 The 10% policy has been applied successfully in the Selly Oak Article 4 Direction Area since November 2014. Appendix 3 contains a number of relevant appeal decisions within Birmingham which support the policy.
- 9.7 The proposed approach in the DMB aims to continue to provide HMO accommodation to meet the city's housing need but to manage the growth of new HMOs to avoiding over-concentrations occurring, thus being able to maintain balanced communities.
- 9.8 Appendix 6 shows the % of HMOs within each of Birmingham's wards. While ward areas are much larger than the 100m buffer, they give a broad indication of the numbers of HMOs across a wider area. The ward figures show that there is capacity for a reasonable growth of HMOs, depending on the location of a proposed HMO i.e. whether it is already in an area of high concentrations.

100m radius

- 9.9 The Council will use a radius approach around the application property to calculate the number of residential properties surrounding a proposal to apply a threshold limit. Using a fixed radius provides be a clear and consistent method for both applicants and Planning Officers dealing with the applications, to assess the percentage of HMOs in an area.
- 9.10 Testing of the 100m radius captured an average of 103 properties within a 100m buffer and represents a 3-minute walk from the widest points of the circle. This is considered to be representative of an immediate local neighbourhood and manageable in terms of assessing the impact of a proposed HMO development. This is therefore the proposed distance threshold for assessing concentrations of HMOs at a neighbourhood level.
- 9.11 Assessing the concentration of HMOs by street was considered as an alternative to using a fixed radius approach. However, as streets vary greatly in length and nature, and thus contain differing numbers of properties, it was considered that using the fixed radius was a more suitable and consistent approach. Using ward boundaries to assess against the percentage threshold would result in too large an area to judge if an over concentration of HMOs has occurred in a local community.

⁴ National HMO Lobby, Balanced Communities and Studentification, 2008

'Sandwiching' and continuous frontage

- 9.12 Issues have been identified by residents through consultation and engagement on the DMB with C3 dwelling houses being sandwiched between HMOs and other non-family residential accommodation and smaller clusters of HMOs. It is recognised that that the negative impacts of HMOs on surrounding properties are most likely to significantly affect immediate neighbours. Therefore, proposed Policy DM11 seeks to ensure that the impacts associated with smaller clusters or concentrations of HMOs that fall below the 10% threshold are reduced.
- 9.13 This is because the potential impacts of smaller concentrations or clusters of HMOs may be not be revealed by the aforementioned method of defining over-concentration. The Council, therefore, propose to apply the following additional restriction to prevent localised clusters of HMOs from being formed. To achieve this, HMOs will be permitted where they:
- would not result in a C3 family dwellinghouse being sandwiched between two HMOs or other non-family residential uses
 - would not lead to a continuous frontage of three or more HMOs or non-family residential uses
- 9.14 For the purposes of this policy a non-family residential use is defined as a HMO, student accommodation, residential accommodation within C1 and C2 Use and self-contained flats.

Standards of accommodation

- 9.15 For the purposes of HMO licensing, minimum national standards for HMOs are prescribed in regulations under the Housing Act 2004. These relate to provision of bathrooms, WCs, kitchens, fire safety and heating within HMOs. The Council has adopted its own minimum HMO standards as explained in para 4.3 of this paper.
- 9.16 The provision of a good standard of living accommodation is a key aim of national and local planning policy. To ensure that HMOs are large enough to provide suitable accommodation for residents, the following minimum room size standards should be met:
- single bedroom of at least 7.5 sq.m.
 - double bedroom of at least 11.5 sq.m
- 9.17 These standards are slightly larger than the city's licensing standards. They are based on the Nationally Described Space Standards (Footnote (c) and (d)). The NDSS are based on a substantial body of evidence and therefore provides a useful measure to guide a standard in relation to a minimum room size.

Exceptional circumstances

- 9.18 It is recognised that the concentration of HMOs in an area may be at such a point where the introduction of any new HMO would not change the character of the area.

This is because the vast majority of properties are already in HMO use. In these circumstances the retention of the property as a family dwelling will have little effect on the balance and mix of households in a community which is already over dominated by the proportion of existing HMO households. Therefore, the conversion of the remaining buildings to a HMO would not further harm the character of the area.

- 9.19 This approach has been supported in recent appeal decisions where inspectors have taken the view that the impact on the character of such areas have already taken place. This also applies to the extension to existing HMOs which add an extra 1 or 2 people.

Intensification of existing HMOs

- 9.20 A change of use from a small C4 HMO to a large sui-generis HMO, or to intensify or increase the size of an existing large HMO will both require planning permission, but will not be assessed against the threshold percentage. This is because the proposal will not affect the overall proportion of HMOs.
- 9.21 It is however, recognised that the intensification of existing 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.
- 9.22 The Council has been supported in these concerns at appeal, where it has been demonstrated that increasing the number of occupants can lead to negative amenity impacts on local residents. As such the proposed policy DM11 allows the consideration of cumulative impacts on the amenity, character, appearance, parking and highway safety and seeks to ensure good living environments can still be achieved in intensified HMOs.

10. Application of proposed policy DM11

Calculating the 10% Threshold

- 10.1 The calculation to provide a percentage concentration in any area will only use the data identified in the policy. It is recognised that the sources listed 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.
- 10.2 In particular, on 6th 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 and therefore will not be registered on the Council's register of planning applications unless they have been self declared to the Council. When the Council opened the publicising period of the city-wide Article 4 Direction on 6 June 2019, it also offered the opportunity for landlords/ owners of C4 HMOs to declare their property as an existing C4 HMO prior to the introduction of the city-wide Article 4 Direction which will come in to force on 8 June 2020. Planning permission would not have been required to convert from C3 to C4 under permitted development rights until this date, so where properties have not been made known, these properties will not be picked up through our HMO evidence base.
- 10.3 These sources will initially provide a reasonable indication of the numbers and location of HMOs in a street. 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. HMOs may be revealed through consultation on

planning applications for HMO development and will be added to the council's records provided their use can be verified.

- 10.4 In assessing planning applications for new HMOs, a 100 metre circle radius will be drawn from the address point (middle of the property). The percentage calculation will count residential properties⁵ whose address point falls within the circle. Residential properties which dissect the circle will be counted where more than 50% of the property falls within the circle. Dwelling houses and HMOs that are located within blocks of flats or subdivided properties are counted as one property. Residential institutions, care homes, hostels and purpose built student accommodation and other specialist housing are also counted as one property per block. This will ensure that calculations of HMO concentration are not skewed.
- 10.5 HMO developments that would lead to or increase an existing over-concentration of HMOs within a defined 100 metre radius, i.e. exceed the 10% threshold, will generally be considered inappropriate, although exceptional circumstances may apply.

Sandwiching and continuous frontage

- 10.6 Planning permission would not be granted where the introduction of a 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.

Exceptional circumstances

- 10.7 It is recognised that the concentration of HMOs in an area may be at such a point where the introduction of any new HMO would not change the character of the area. This is because the vast majority of properties are already in HMO use. In these circumstances the retention of the property as a family dwelling will have little effect on the balance and mix of households in a community which is already over dominated by the proportion of existing HMO households. Therefore, the conversion of the remaining buildings to a HMO would not further harm the character of the area.
- 10.8 Proposals in areas where there are existing over-concentrations of HMOs will be assessed against the relevant policy criteria and may be granted planning permission if evidence can prove there is an established lack of demand for the single family use of the property concerned.

Intensification of existing HMOs

- 10.9 When the Council consider a planning application for an extension to an existing lawful HMO, the threshold limit will not be a material consideration as the HMO has

⁵ Exclude non-residential properties such as retail, offices, leisure uses.

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.

- 10.10 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.
- 10.11 A change of use will occur when intensifying an existing C4 HMO to a large sui generis HMO (accommodating 7 or more people) resulting in a need for planning permission. The impacts of such proposals would be considered against criteria e) cumulative impacts on the amenity, character, appearance, parking and highway safety and f) provision of high quality accommodation with adequate living space.

Living environments

- 10.12 Given the important role shared housing plays as part of the city's housing offer, the condition of HMO properties should be of a high standard and this high standard is maintained.
- 10.13 The standard of facilities and safety for tenants is also controlled outside the planning system under the statutory provisions of the Housing Act 2004. In addition to obtaining planning permission, landlords must apply to licence their property under Part II of the Housing Act 2004.
- 10.14 For HMO licensing purposes Birmingham has adopted the minimum room size of 6.51 sq.m. for a single room and 11 sq.m. for a double room where there is a separate communal living room of sufficient size for the number of occupiers in the HMO. For planning purposes, the Council has chosen to adopt higher standards within policy DM11 based on the Nationally Described Space Standard footnote c and d:
- in order to provide one bedspace, a single bedroom has a floor area of at least 7.5 sq.m.
 - in order to provide two bedspaces, a double (or twin) bedroom has a floor area of at least 11.5 sq.m.
- 10.15 The Council will assess whether adequate amenity space is provided for the tenants in accordance with the standards set out in the forthcoming Birmingham Design Guide.
- 10.16 Specific maximum parking standards for HMOs are set out in the draft Parking SPD.

11. Conclusions

- 11.1 It is recognised that HMOs are an important element of the city's housing stock and it is not the aim of the policy to reduce their overall numbers but to avoid harmful concentrations and ensure that quality accommodation is created.

- 11.2 The Government encourages local planning authorities to help maintain mixed and balanced communities. The key issue with imbalance in neighbourhoods which the Government has recognised is that it leads to rising problems and declining community, and potentially unsustainability. Over-concentrations of HMOs can cause this imbalance.
- 11.3 In the light of concerns about the impact of HMOs on the character of local areas in Birmingham and the evidence collected showing over-concentrations and near concentrations of HMOs in the city, the proposed policy DM11 seeks to introduce a city-wide 10% threshold. This will ensure that a consistent approach is applied across the city given the recent trend of HMOs to relocate away from the overly saturated areas of the city.