

Appendix A

Homes in Multiple Occupation – Review of Policy H3 Criterion (a)

1. Background

- 1.1. In recent years some parts of the district have experienced pressure for the conversion of family homes to Houses in Multiple Occupation (HMO's). HMOs are defined as dwellinghouses which are inhabited by three or more unrelated people, as their only or main residence, who share one or more basic amenities such as kitchens etc. There are two types of HMOs:
- small HMOs, housing between three and six unrelated persons; and
 - large HMOs, housing more than six unrelated persons.
- 1.2. Current national permitted development rights allow the change of a dwellinghouse to a small HMO without planning permission. The change of a dwellinghouse (or a small HMO) to a large HMO does, however, require planning permission.
- 1.3. However, following the receipt of representations from residents in Morley Grove, and pressure for Houses in Multiple Occupation (HMO) in other areas of the town, such as the Hides, a district wide Article 4 Direction was put in place by the Council. This direction removes the permitted development rights referred to in para 1.2 above, which meant that dwellings that were being proposed to be converted to dwellings in Multiple Occupation, comprising 3 or more nonrelated persons living together, now required planning permission. This was because it was considered that dwellings in Multiple Occupation can give rise to various issues, relating to noise disturbance, parking congestion and refuse collection (see tables 1 and 2 from licensing below). Removing permitted development rights through an article 4 direction was considered one way to help manage potential issues through the planning system.
- 1.4. Prior to the adoption of the Harlow Local Development Plan (HLDP) in December 2020, no formal planning policy was in place to address HMO development, consequently members sought the inclusion of new policy within the Plan to address this. Following the Examination in Public (EiP) and subsequent modification by the Inspector, the new policy was included within the HLDP, which was adopted by the Council in December 2020. (See extract in paragraph 3.1 below). This is discussed further below.

2. Article 4 Directions

- 2.1. To strengthen control over HMOs elsewhere in the district, following the article 4 direction being put in place on Morley Grove, a Direction under Article 4(1) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), ('the Order') was made to extend control over the whole district. This was considered and confirmed by Cabinet and came into force on 12th April 2021:

The Direction applies to the development described in the following Class of the Order:-

Schedule 2 Part 3 Class L(b) namely development consisting of a change of use of a building—

from a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, to a use falling within Class C4 (houses in multiple occupation) of that Schedule.

2.2. This direction means that across the district proposals to use dwellings with 3 or more unrelated persons residing together as a HMO, now requires planning permission. Separately an HMO license is required from Environmental Health for renting for 5 unrelated persons or more.

3. Harlow Local Development Plan

3.1. Arising from the issues described above Policy H3 (See Appendix 2 for full extract) was developed and included within the HLDP. This policy is used in the consideration of planning applications for all HMOs (3 or more unrelated people sharing). The policy states:

The creation or conversion of a dwelling to a House in Multiple Occupation (HMO) must meet the following criteria:

- (a) the number of HMOs would not exceed one out of a row of five units;*
- (b) it is supported by a design rationale based on an understanding and analysis of local context and character taking into consideration the adopted Harlow Design Guide Supplementary Planning Document (SPD);*
- (c) the development makes adequate provision for refuse storage and collection;*
- (d) parking is provided at a level of one space per bedroom, plus one secure covered cycle space per bedroom, or set at the current adopted parking standards;*
- (e) effective measures are proposed to minimise the effects of noise and disturbance.*

The effectiveness of this policy and the one-in-five restriction should be reviewed two years after the adoption of this Local Plan.#

note inclusion of Inspector’s modification, contained within the adopted policy.

4. Inspectors Report

4.1. Policy H3 was considered by the Inspector at the Examination in Public (EiP) of the Plan. Following subsequent discussions at the EiP, he set out his observations on the matter in his final report. In this he stated:

1. *Turning to housing policies, an increasing number of properties in the district have been converted to Houses in Multiple Occupation (HMOs) and in response Policy H3 seeks to introduce a limit on the number of HMOs to one in a row of five units. HMOs provide valuable accommodation and increase housing choice but an undue concentration in any area may have a detrimental impact and reduce the availability of family housing. Given current evidence a one in five limit is justified as the right balance at the outset but to ensure the plan is effective **MM21** is necessary to require an early review of the policy.*

2. Local Plan Main Modification subsequently made is set out in the following table:

MM21	Policy H3 Page 127	<p>.....(e) effective measures are proposed to minimise the effects of noise and disturbance.</p> <p><u>The effectiveness of this policy and the one-in-five restriction should be reviewed two years after the adoption of this Local Plan.</u></p>
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- 4.2. It should be noted that in his final report, the Inspector had focussed specifically on criteria (a) of Policy H3, i.e. the one in five criteria of the policy. Whilst he also stated the “Policy” should be reviewed, it is clear that his intention was that the review should focus on criteria (a) of Policy H3.
- 4.3. The final version of the policy as set out in the HLDP is set out in paragraph 3.1 above.

5. Planning Applications

- 5.1. Since adoption of the plan in December 2020, monitoring to date has revealed that there have only been 7 inquiries made to the Council relating to HMOs. Some of these resulted in planning applications being submitted to and considered by the Council.

Reference	Address and Proposal	Outcome
20/00044	11 Northbrooks: proposed HMO	Planning application withdrawn
20/00493	11 Harefield: 6 person HMO (C4 use) to a 7 person HMO	Planning application refused on grounds: Car parking; Bin store provision contrary to H3
CV/21/70035	74 Risdens Garage Conversion + existing HMO	Covenant application consent required
21/00607	116 The Downs: Single storey front extension to existing HMO	Planning permission Granted: however, not an application for an HMO
21/00628	25 Home Close Use of existing property as part family use and part rented out as 4 HMO	Planning permission refused on grounds: Car parking; noise; HMO standard (housing services); Design; Contrary to H3
CV/21/70104	90 Ladyshot HMO enquiry (no app made)	Covenant consent required
22/00090	25 Home Close Use of existing property as part family use and part rented out as 4 HMO	Planning permission refused on grounds: Car parking; noise; HMO standard (housing services); Design; Contrary to H3

- 5.2. Of the five planning applications submitted for HMO’s, one was withdrawn and three were refused planning permission citing Policy H3, and one was a duplicate application.
- 5.3. Of these proposals/queries none used criteria (a) of the policy (one out of five in a row) as a reason for refusal. Consequently, to date since no instances of criteria (a) being used as a reason for refusal, it can be concluded that the policy overall, in this respect, is being successfully implemented and remains effective. In addition, no challenges have been made to the policy, as would be demonstrated through the submission of planning appeals, where applications have been refused planning permission. Again, this would indicate the general effectiveness of the policy.

6. Planning Enforcement

- 6.1. Prior to the introduction of the Article 4 Direction, where HMOs occurred through the allowances of the permitted development regime, this had led to several HMOs occurring in close proximity to each other. Since Article 4 Directions were in place there have been 8 concerns raised regarding HMOs only one raised at Home Close (see below). Policy H3 of the HLDP provides an effective planning policy framework to regulate and manage such development. On the basis of current planning Enforcement monitoring since the policy was introduced, it is concluded that criteria (a)

remains relevant to protect the amenity of neighbouring properties. Of note enquires in relation to the change of use of dwellings to HMO's show that the main issue to be addressed in order to secure planning consent for an HMO has been the parking requirement of criterion(d) of the policy.

6.2. There have only been two instances where planning enforcement has specifically been initiated in relation to an HMO. One of which related to the application referred to above at Home Close, the other at Greygoose Park (an established HMO) related to the conversion of a garage to separate dwelling associated with the existing HMO which was dismissed at appeal and the enforcement was complied with. There have been some general enquiries with regards change of use, but in all circumstances, it has been made clear that planning permission was required.

7. Licensing

7.1. Separate to the planning measures that are being used to manage HMO's it is noted that of the 317 licenses on the public register only 8 postdate the Article 4 Directions. This process is managed and monitored by Environmental Health officers but to date very few have been granted a license and only in cases where they received a separate grant of planning permission.

7.2. Environmental Health have also confirmed that they have not received complaints where several HMOs adjoin each other, as generally complaints that have been received in the past relate to individual dwelling units within a street. This indicates that for the purposes of the implementation of planning policy criterion (a) remains relevant.

7.3. Data from Environmental Health from 2015 relating to overall complaints about HMO properties reveal the following common issues:

Table 1 Type of complaints concerning HMOs

	Rubbish	Noise	Housing Standards
2015	14	29	6
2016	23	22	7
2017	18	26	8
2018	17	25	9
2019	13	53	12

8. COVENANT CONTROL

8.1 Former Council housing sold under the right to buy scheme have a covenant included which is held by the Council. Since 2020 there have been 13 covenant approvals and 7 refusals. The covenant variation is dependent on owners ensuring new tenants have connection to Harlow through an existing family grouping or close family member in Harlow or through employment in the local economy, including Stansted Airport.

8.2 Covenant control is, however, separate from planning control and the outcome of an application is not dependent on planning policy.

9. CONCLUSION

- 9.1. Since the adoption of the HLDP only a small number of planning applications have been submitted to the Council for consideration, and these have been refused. In terms of the Inspectors recommendation to review Policy H3 two years after its adoption the policy is working effectively to date.
- 9.2. Planning enforcement has had few cases in relation to the regulation of HMOs, and whilst not specifically cited as an enforcement issue policy H3 criteria (a) remains relevant to help manage the potential impact on existing residents.
- 9.3. In addition, Environmental Health through their role of granting licenses for HMOs have not received complaints that would be necessarily ameliorated by criterion (a) of the policy, however they do not consider the criterion should be changed at this stage.
- 9.4. Reviewing the number of relicensed registrants there is only one new license issued, compared to the 300 existing licenses issued previously, which suggests that the number of dwellings with potential for conversion to HMOs has diminished, and that applications for future HMOs is likely to be limited.
- 9.5. The Inspector had modified the Policy in order to enable the Council to be able to review the effectiveness of the policy after two years, however, to date it is not considered evidence exists to warrant changing criterion (a) of the Policy as it stands. The evidence shows the policy is currently effective (based on policy references in refusals and information from Environmental Health) so will continue to be important to retain in its current form in order to protect residents' amenities.
- 9.6. In conclusion it is considered unnecessary at this stage to change the policy criterion and embark on a statutory focussed review of the adopted policy as a single issue. However, the policy will continue to be monitored and reviewed annually as part of the Authority Monitoring Report. The Policy will also be subject to a full review as part review of the HLDP.

