

**ANNEX 1: Draft Controlling Houses in Multiple
Occupation Supplementary Planning
Document (December 2011)**

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SUPPLEMENTARY PLANNING DOCUMENT

DRAFT

Controlling the Concentration of Houses in Multiple Occupation

December 2011

Contents

1.0	Introduction	1
2.0	Supplementary Planning Documents	1
	Purpose	1
	Scope	2
3.0	Context	2
	HMO Definition	2
	Powers under planning legislation to manage the spatial distribution of HMOs	3
	Powers under housing legislation to improve the management and condition of HMOS	3
	HMOs in York	4
4.0	Policy Framework	6
	Local Plan	6
	Core Strategy Submission (Publication)	7
5.0	Article 4 Direction	8
6.0	Proposed Approach	8
	Assessing Concentrations of HMOs	10
	<i>Option 1 – Neighbourhood Level</i>	10
	<i>Option 2 – Street Level</i>	12
	<i>Option 3 – Neighbourhood and Street Level</i>	14
	Residential Amenity	15
7.0	Conclusion	18

Background Papers

Annex 1: Spread of Student Households 2000-2010

Annex 2: Local Plan Extract

Annex 3: Core Strategy Submission (Publication) Extract

Figures

<i>Figure 1: Extent of Article 4 Direction - The Main Urban Area</i>	2
<i>Figure 2: HMO Concentrations</i>	6
<i>Figure 3: Neighbourhood Area</i>	11
<i>Figure 4: Street Level</i>	13

**For further information on the details in this SPD, please
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1.0 Introduction

- 1.1 National policy guidance¹ provides the context for local planning policy to ensure that balanced and mixed communities are developed. With the aim of avoiding situations where existing communities become unbalanced by the narrowing of household types and the domination by a particular type of housing. Within this context, a key City of York Council priority from its *Sustainable Community Strategy, York – A City Making History 2008 -2025 (2008)* is building confident, creative and inclusive communities that are strong, supportive and durable.
- 1.2 Houses in Multiple Occupation² or HMOs as they are commonly referred to represent a significant and growing proportion of the mix of housing in York. They make an important contribution to York's housing offer, providing flexible and affordable accommodation for students and young professionals, alongside low-income households who may be economically inactive or working in low paid jobs. Whilst HMOs are regarded as a valuable asset to the city's housing offer there has been debate about the wider impacts concentrations of HMOs are having on neighbourhoods and increasing rental costs. This debate has mainly been driven by the increasing number of student households in the city and focuses on the detrimental impact large concentrations of HMOs can have on neighbourhoods, such as the loss of family and starter housing.
- 1.3 An evidence base has been developed to explore the spatial distribution and impact of HMOs, typically occupied by student households, which indicates that it is necessary to control the number of HMOs to ensure that communities do not become imbalanced. This control will be achieved through an Article 4 Direction which will come into force on 20 April 2012. This removes permitted development rights, requiring a planning application to be submitted to change a property into an HMO. This Draft Supplement Planning Document (SPD) provides guidance on how these planning applications could be determined, providing a number of options for consideration through consultation.

2.0 Supplementary Planning Documents

Purpose

- 2.1 An SPD is intended to expand upon policy or provide further detail to policies in Development Plan Documents. It does not have development plan status, but it will be afforded significant weight as a material planning consideration in the determination of planning applications.

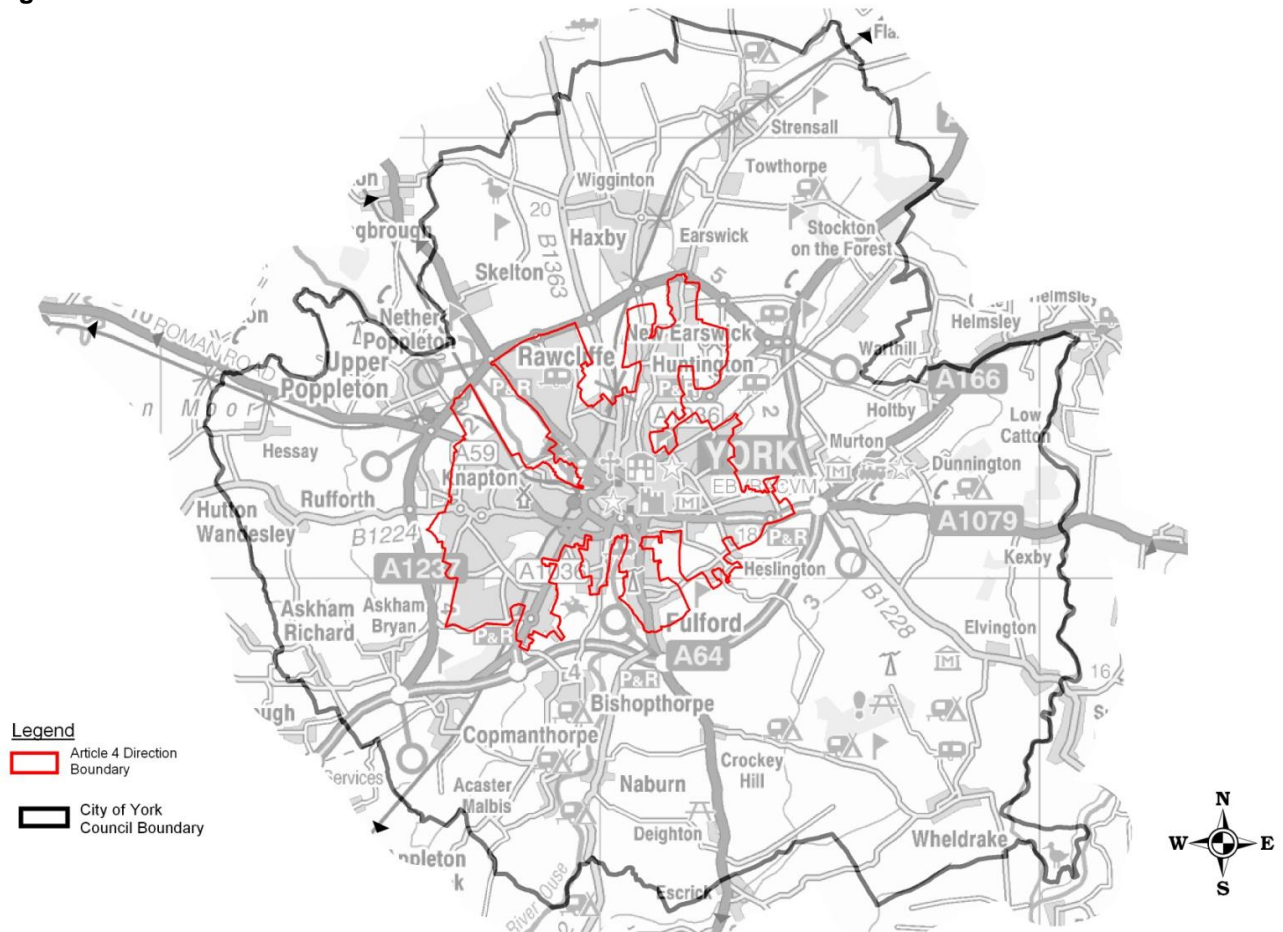
¹ Planning Policy Statement 1 'Creating Sustainable Communities and Planning Policy Statement 3 'Housing'

² A House in Multiple Occupation or HMO can be defined as a dwelling house that contains between three and six unrelated occupants who share basic amenities

Scope

- 2.2 The guidance will apply to all planning applications for change of use from dwelling house (Use Class C3) to HMO (Use Class C4) within the main urban area, as shown at Figure 1 overleaf. It will also apply to planning applications for the change of use from dwelling house (Use Class C3) to 'sui generis' large HMOs across the Local Authority area. The guidance will not apply to purpose-built student accommodation. Please see Section 3.0 below for further information with regard to what constitutes an HMO and Section 5.0 for detail on the Council's decision to implement an Article 4 Direction.

Figure 1: Extent of Article 4 Direction – The Main Urban Area



3.0 Context

HMO Definition

- 3.1 Previously, Use Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended 2005) provided no distinction between a dwelling occupied by one household, such as a family, and that of a dwelling occupied by up to 6 unrelated people. Shared houses where there are 6 or more residents did not fall within Class C3, and were defined as Houses in Multiple Occupation and classed as Sui Generis 'of its own kind'. In a planning sense Sui Generis relates to uses that do not fit within the four main use class categories.

- 3.2 On 6 April 2010, amendments were made to the Use Classes Order and the General Permitted Development Order to introduce a new class of type C development – C4 'Houses in Multiple Occupation'. These are commonly referred to as 'small HMOs'. The Sui Generis HMOs which existed under the previous legislation are still considered as HMOs, but these are now commonly referred to as 'large HMOs' which, in broad terms, consist of more than six occupants. The new use class, C4, describes a house that contains three, four or five unrelated occupants who share basic amenities. However, properties that contain the owner and up to two lodgers do not constitute HMOs for these purposes. To classify as an HMO, a property does not need to be converted or adapted in any way.

Powers under planning legislation to manage the spatial distribution of HMOs

- 3.3 Initially, the changes made to the Use Class Order in April 2010 meant that planning permission would be required for any change from a single household dwelling to either a small or a large HMO. However, following the formation of the new Coalition Government, further changes were made to the General Permitted Development Order on 1 October 2010 making changes of use from Class C3 (single household dwelling houses) to C4 (HMOs) permitted development. This means that planning permission for this change in use is not required. Should Local Authorities wish to exert tighter planning controls on the development of HMOs, permitted development rights would have to be removed through a planning mechanism called an Article 4 Direction.
- 3.4 An Article 4 Direction would mean that planning permission, within a given area, would then be required for a change of use from a dwelling house to an HMO. It should be noted that the effect of an Article 4 Direction is not to prohibit development, but to require a planning application to be submitted for development proposals, to which it applies, in a particular geographical area.

Powers under housing legislation to improve the management and condition of HMOs

- 3.5 The standard and management of existing HMOs is primarily controlled through the Housing Act 2004 (the Act) and Regulations. Under this Act Local Authorities have a duty to license any HMOs that are three storeys or over and are occupied by five or more persons. This is known as mandatory licensing. Authorities also have the option of extending licensing (additional licensing) to other types of HMO or to specific areas (selective licensing under certain conditions. Other actions may include a landlord accreditation scheme or street/community wardens to deal with anti-social behaviour.

- 3.6 The Council's current approach recognises that HMOs are a vital source of accommodation within the city used by a range of tenants and is to:
- rigorously enforce the mandatory provisions of the Act by licensing larger HMOs (three storey and more with five or more unrelated occupants);
 - ensure that we fulfil our duty to inspect all licensed HMOs;
 - respond to and investigate complaints about general housing conditions and management; we use the legal tool called the Housing Health and Safety Rating System to assess the condition and the HMO management regulations which provides a framework for managers to ensure that the accommodation including the outside space is kept in a good order, tidy and clean; and
 - investigate complaints of overcrowding; although the problem of overcrowding in the city is low we have found that HMOs can be more prone to overcrowding than other sectors.
- 3.7 This approach is complemented by the Code of Best Practice³ for shared student accommodation. This has been developed in partnership with the universities. It provides clear information about housing standards and is part of the Council's strategy to ensure that students feel welcome and reassured by removing some of the uncertainties from house hunting.
- 3.8 The Council are currently pursuing the implementation of an accreditation scheme. This will seek voluntary compliance by private landlords with good standards in the condition and management of their properties and their relationship with their tenants.
- 3.9 The exercise of powers available to the Council under the Housing Act 2004 does not directly control the scale and distribution of HMOs but importantly, it does provide opportunities for intervention to secure improvements to the management and maintenance of HMOs. Accordingly, it presents the Council with the opportunity to pursue complementary measures to support its planning policies. These measures cannot be developed through this SPD and are instead covered by separate legislation.

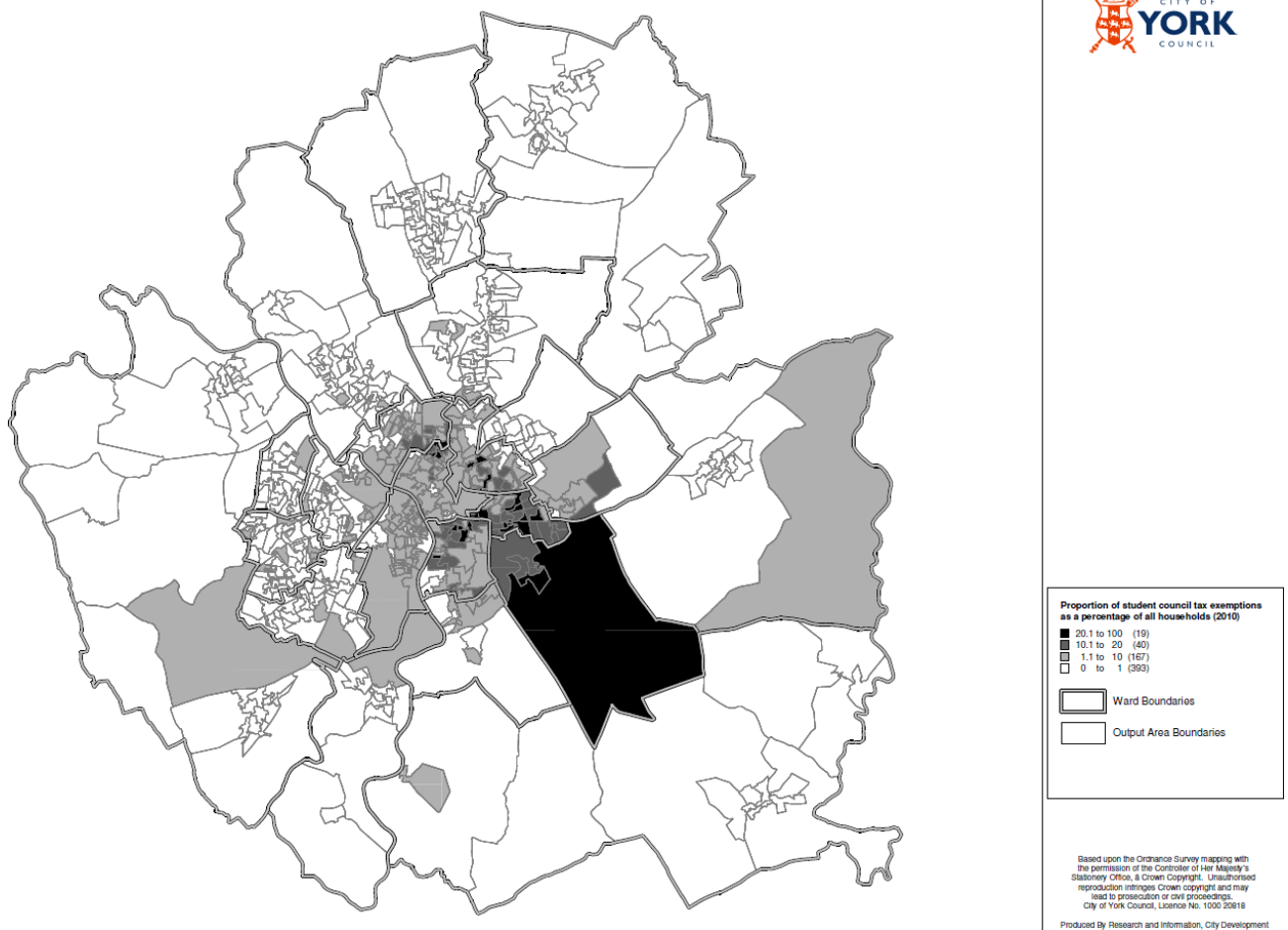
HMOs in York

- 3.10 A detailed evidence base has been undertaken to explore HMOs in York, which has focused on student households. This is because in York, HMO issues are driven by the large student population in the City and because Council Tax student exemption data is the most robust information available to indicate the location of potential HMOs. It is not intended to replicate this evidence in this SPD, however a summary of the headline outcomes are presented below. For more detail please see the *Houses in Multiple Occupation Technical Paper (2011)* that supports the Core Strategy.

³ Please see http://www.york.gov.uk/housing/hmo/Landlords_accreditation_scheme/

- 3.11 Historic mapping shown at Annex 1 undertaken to explore the spatial extent of HMOs shows a clear spread of student households in several of the city's Wards over a ten year period between 2000 and 2010, indicating clustering in the Clifton/Guildhall Wards and Hull Road but there have also been more general rises over much of the rest of the main urban area. Council Tax student housing exemption data has been mapped. This applies to properties occupied only by one or more students either as full time or term time accommodation. Properties falling within 'Halls of residence' on campus have not been included. It does however include some off campus accommodation owned or managed by the universities. Based on these past trends it would be reasonable to assert that permitted development comprising a change of use to student HMO would be likely to take place in the future. Moreover, given the clustering that has already taken place in the Clifton/Guildhall Wards and in Hull Road in particular it is likely that if unmanaged this would continue and could create unbalanced communities. It is also likely that new clusters may develop. Current concentrations of HMOs are shown overleaf at Figure 2.
- 3.12 Work undertaken indicates that areas with high concentrations of student households can suffer from increased levels of crime, burglary, noise nuisance, parking pressures and poor quality of environment. Although it is important to note that it is not suggested that this is attributed to students themselves who can often be the victims of crime for example or suffer from a poor quality environment.
- 3.13 It is also recognised that there is likely to be an increase in the number of HMOs in York following the changes to the national benefit rules on 1 April 2012. The new rules will mean that single working age people under 35 years old will only be eligible to receive benefits for a single room in a shared house, currently the age limit is 25 years. As such, it is anticipated that there will be an increase in the number of claimants seeking accommodation in HMOs.

Figure 2: Concentrations of HMOs



4.0 Policy Framework

Local Plan

- 4.1 At the time of preparing the City of York Draft Local Plan the use class order provided no distinction between a dwelling occupied by one household, such as a family, and that of a dwelling occupied by up to 6 unrelated people. Albeit, shared houses where there are 6 or more residents did not fall within Class C3, and were defined as HMOs and fell within the Sui Generis use class. Accordingly, the Council had very limited control over the occupation of dwellings in the private rented sector by groups of up to 6 people.
- 4.2 It was within this context that Policy H7 'Residential Extensions' and Policy H8 'Conversions' of the City of York Draft Local Plan were written to control the conversion of properties to flats and for Houses in Multiple Occupation (for more than 6 people). These policies, appended at Annex 2 for information, essentially seek to ensure that residential amenity is protected. To support local plan policies Supplementary Planning Guidance on extensions and alterations to private dwelling houses was prepared which provides a

reference for householders, builders and developers intending to alter or extend residential buildings.

Core Strategy Submission (Publication)

- 4.3 Policy CS7 'Balancing York's Housing Market' of the emerging Core Strategy supports housing development which helps to balance York's housing market, addresses local housing need, and ensure that housing is adaptable to the needs of all of York's residents throughout their lives. This will be achieved in a number of ways as set out in the policy, which is shown at Annex 3. With regard to HMOs, the LDF will seek to control the concentration of Houses in Multiple Occupation, where further development of this type of housing would have a detrimental impact on the balance of the community and residential amenity.
- 4.4 The Core Strategy recognises that higher education institutions and the student population form an important element of the community and the presence of a large student population contributes greatly to the social vibrancy of the City and to the local economy. The Council are committed to ensuring their needs are met and will continue to work with the City's higher education institutions in addressing student housing needs. However, it is also recognised that concentrations of student households, often accommodated in HMOs, can cause an imbalance in the community which can have negative effects. These can include a rise in anti social behaviour, increases in crime levels, parking pressures and decreased demand for local shops and services, sometimes leading to closures. It can also put pressures on family and starter housing as owner occupiers and buy to let landlords compete for similar properties and have implications for non students seeking accommodation in the private rented sector.
- 4.5 It is considered that monitoring the spatial distribution and impacts of student housing will allow the Council to identify if it is necessary to prevent an increase in the number of student households in certain areas to ensure communities do not become imbalanced. As discussed in Section 3.0, this control can be achieved through an Article 4 Direction and the removal of permitted development rights, requiring landlords to apply for planning permission to change a property into an HMO.

5.0 Article 4 Direction

- 5.1 As set out in Section 3.0 an Article 4 Direction is a decision made by a Local Planning Authority preventing certain specified development from enjoying the benefit of permitted development rights. On 15 April 2011 the Council published its intention to implement an Article 4 Direction relating to development comprising change of use from Class C3 (dwellinghouse) to a use falling within Class C4 (HMO). The effect of the Direction is that within the main urban area of York (see Figure 1 on page 2), permitted development rights are removed for this type of development. Planning permission will therefore be required for a change of use within the defined area from Class

C3 to Class C4 once the Article 4 Direction is in force. The Article 4 Direction, confirmed at Cabinet on 1 November 2011, applies to the main urban area as shown within the red line boundary on the map at Figure 1 and will come into effect from 20 April 2012.

- 5.2 For York, the justification for making an Article 4 Direction to control HMOs lies in the harm that would be caused to local amenity and the proper planning of the area. The evidence of the spread of student housing provides a strong justification for implementing an Article 4 Direction in York on a wide scale. The purpose of introducing the planning control is not to unreasonably suppress an appropriate level of HMOs in the city. Its purpose is to ensure that the supply of shared housing is managed to avoid localised high concentrations of HMOs which could create unbalanced communities.
- 5.3 It should be noted that the effect of an Article 4 Direction is not to prohibit development, or to unreasonably suppress the number of HMOs, but to require a planning application to be submitted. Accordingly this SPD is required to develop a policy response to provide guidance for determining planning applications.

6.0 Proposed Approaches

- 6.1 The following proposed approaches to determining planning applications for change of use to HMO are guided by the LDF Vision for all of York's current and future residents having access to decent, safe and accessible homes throughout their lifetime. A key element of the LDF is its role in maintaining community cohesion and helping the development of strong, supportive and durable communities.
- 6.2 There is evidence to demonstrate that it is necessary to control the number of HMOs across the city to ensure that communities do not become imbalanced. A policy approach for the development management for HMOs of all sizes is required. A threshold based policy approach is considered most appropriate as this tackles concentrations of HMOs and identifies 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.
- 6.3 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 Authorities. For York, a threshold of 20% of all properties being HMOs is considered to be the point at which a community can tip from balanced to unbalanced.
- 6.4 Under the threshold approach an assessment of the proportion of households that are HMOs is undertaken within a given area. To capture as many different types of shared accommodation as possible the Council will use the following:

- council tax records - households made up entirely of students can seek exemption from Council Tax and the address of each exempt property is held by the Council. This applies to properties occupied only by one or more students either as full time or term time accommodation. Properties falling within 'Halls of residence' on campus will not be included, however some accommodation owned or managed by the universities off campus will included;
- licensed HMOs - records from the Council's Housing team of those properties requiring an HMO licence will be utilised. These are those properties that are three storeys or over and are occupied by five or more persons;
- properties benefiting from C4 or sui generis HMO planning consent – in addition to those properties already identified as having HMO permission, where planning permission is given for a change of use to C4 HMO or a certificate of lawful development issued for existing HMOs this will be recorded in the future to build up a clearer picture of HMO properties; and
- properties known to the Council to be HMOs – this can be established through site visits undertaken by the Council's Housing team in response to complaints for example.

6.5 The above data sets will be collated to calculate the proportion of shared households as a percentage of all households. The data will be analysed to avoid double counting, for example, identifying where a property may be listed as a licensed HMO and have sui generis HMO planning consent. Given that the information collated may be expected to change over the course of the calendar year as houses and households move in and out of the private rented sector it is considered appropriate to base the assessment on a single point in time.

6.6 It is important to understand the appropriate geographic level at which the threshold approach should be applied. Below are three options for assessing concentrations of HMOs and we would like your views on which option is the right approach to managing concentrations of HMOs.

Assessing concentrations of HMOs

Option 1 - Neighbourhood Level

6.7 It is considered that for York, some issues arising from concentrations of HMOs can be a neighbourhood matter, going beyond the immediate area of individual HMOs, particularly a decreasing demand for local schools and changes in type of retail provision, such as local shops meeting day to day needs becoming take-aways. Accordingly, a consistent and robust understanding of a 'neighbourhood area' has been developed as explained in the following methodology section.

6.8 The following approach could be used to determine planning applications relating to HMOs:

Applications for the change of use from dwelling house (Use Class C3) to HMO (Use Class C4 and Sui Generis) will only be permitted where:

- *It is in a neighbourhood area where less than 20% of properties are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent or are known to the Council to be HMOs; and*
- *The accommodation provided is of a high standard which does not detrimentally impact upon residential amenity.*

6.9 In neighbourhood areas where there is an existing high concentration of HMOs (i.e. more than 20% of all households) further change of use to HMO would be resisted. In marginal cases, where an area is approaching a 20% concentration of HMOs, a thorough assessment of existing HMOs and the impact additional HMOs will have on the neighbourhood area will be undertaken to establish if it is appropriate for further change of use to take place.

You Tell Us

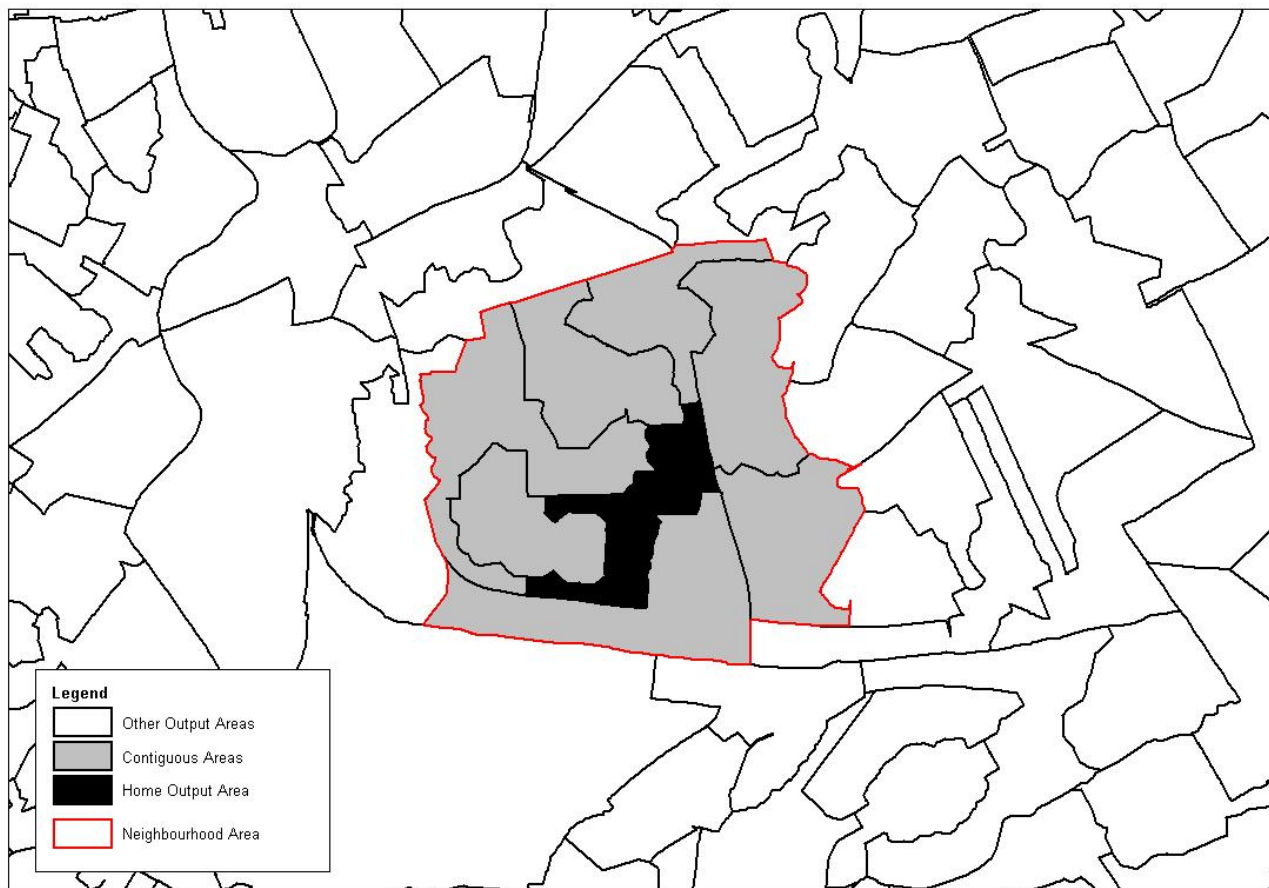
Question 1

Do you think a threshold of 20% is appropriate across a neighbourhood area? If not what would be an appropriate percentage?

6.10 It has been necessary to establish a definition of a neighbourhood area. For the purpose of this guidance, this must be consistent and robust as well as being related to available statistical information and of a sufficiently large area to be statistically significant. There is a risk that if too small an area is used the assessment will be statistically unreliable.

6.11 On this basis, the Output Areas (capturing approximately 125 households), defined by the Office National Statistics were considered to provide the only independently defined and convenient geographical units for the purposes of such an approach. Following best practice, it is considered that one Output Area is too small to properly represent a neighbourhood and accordingly, in assessing concentrations of HMOs a cluster of contiguous Output Areas will be applied. The number of contiguous Output Areas varies depending upon local circumstances but typically clusters comprised of between 5 and 7 Output Areas capturing 625 to 875 households will be used to calculate concentrations of HMOs. It is considered that this size of an area will be statistically significant when assessing the impact of additional HMOs. An example of a cluster of Output Areas is shown below at Figure 3. The 'home output area' is where the planning application is located. To ensure a consistent and robust approach, all adjoining output areas to the output area where the planning application is located will be used to form the neighbourhood area in all cases.

Figure 3: Neighbourhood Area



6.12 It is considered that some issues arising from HMOs can most reliably be measured across a neighbourhood area. This is because some of the impacts associated with high concentrations of HMOs, as highlighted in the evidence base underpinning the Article 4 Direction, go beyond the immediate area of individual HMOs. A neighbourhood approach would in particular address the impact large numbers of HMOs can have on decreasing demand for some local services such as the examples included in paragraph 6.7 above.

6.13 A neighbourhood approach based on contiguous output areas has been taken by Charnwood Borough Council and Nottingham City Council and has been developed following an appeal decision whereby the Inspector concluded that assessing HMOs on two output areas (approximately 250 properties) was statistically unreliable. The Inspector considered that it would be more statistically relevant and significant to assess the potential impacts of concentrations of HMOs across a cluster of Output Areas. He asserted that using this approach would give a more reliable picture of the impact HMOs have on communities.

Option 2 - Street Level

6.14 A number of Local Authorities are currently progressing Article 4 Directions to control HMOs in their area. Most Authorities are proposing a threshold approach to identify when a tipping point has been reached when a

community becomes unbalanced. However different policy approaches are emerging on how authorities propose to assess concentrations of HMOs.

- 6.15 Some Authorities have decided to assess HMO concentrations using street level data. For example, Manchester City Council and Oxford City Council are proposing to adopt a policy approach whereby concentrations of HMOs are calculated on a street by street basis, across an area of within a 100 metre radius of the HMO change of use planning application site. In Oxford a threshold of 20% is proposed and in Manchester, 10%.
- 6.16 For Oxford City Council a threshold of 20% on a given length of street represents 1 in 5 properties potentially being HMOs. In areas of Oxford dominated by terraced housing, a row of houses unbroken by cross-streets is typically a minimum of about 100 metres. Accordingly, it is considered that this length of frontage can reasonably be considered to constitute a property's more immediate neighbours and is therefore the proposed distance threshold. This is proposed to be measured along the adjacent street frontage on either side, crossing any bisecting roads, and also continuing round street corners. This measurement would also apply to the opposite street frontage, from a point directly opposite the application site. This is illustrated at Figure 2.

Figure 4: Street Level



6.17 Should a street by street analysis of concentrations of HMOs be taken the following approach could be used to determine planning applications relating to HMOs:

Applications for the change of use from dwelling house (Use Class C3) to HMO (Use Class C4 and Sui Generis) will only be permitted where:

- *Less than 20% of properties within 100 metres of street length either side of the application property are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent or are known to the Council to be HMOs; and*

- *The accommodation provided is of a high standard which does not detrimentally impact upon residential amenity.*

You Tell Us

Question 2

Do you think a threshold of 20% is appropriate for a street level assessment of concentrations of HMOs? If not what would be an appropriate percentage?

- 6.18 This approach would allow the Council to manage the clustering of HMOs at street level. This would prevent whole streets from changing use from dwellinghouses to HMO. Such control may be beneficial for those streets with property types that are particularly suited to HMO use and would protect the character of a street by maintaining a mixed and balanced community. This could avoid the situation where whole streets or large sections of streets change use to HMOs; the effects of which are most keenly felt out of term time when properties are empty.
- 6.19 A street by street approach would address the impacts large concentrations of HMOs can have on increased levels of crime and the fear of crime, changes in the nature of street activity, street character and natural surveillance by neighbours and the community outside of term times, standards of property maintenance and repair, increased parking pressures, littering and accumulation of rubbish, noise between dwellings at all times and especially music at night.
- 6.20 However, the relevance of the street level as the basis for assessing concentrations of HMOs has not been tested at examination or appeal. Manchester City Council's street level approach is currently being considered at the examination of their Core Strategy. For Oxford, their approach to HMOs is being progressed through their Sites and Housing Development Plan Document which is currently at the preferred options stage. Mindful of the appeal decision in Nottingham whereby the Inspector called into question the appropriateness of assessing HMOs on a narrow geographic scale there is a risk that in taking a street level approach to assessing HMOs the Council would be open to challenge at appeal.

Option 3 - Neighbourhood and Street Level

- 6.21 A combined approach of both a neighbourhood and street level analysis of HMOs could be undertaken to determine HMO planning applications. This would seek to control concentrations of HMOs of less than 20% of all households at both a neighbourhood area and at the street level. The following approach could be used:

Applications for the change of use from dwelling house (Use Class C3) to HMO (Use Class C4 and Sui Generis) will only be permitted where:

- *It is in a neighbourhood area where less than 20% of properties are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent or are known to the Council to be HMOs; and*
- *Less than 20% of properties within 100 metres of street length either side of the application property are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent or are known to the Council to be HMOs; and*
- *The accommodation provided is of a high standard which does not detrimentally impact upon residential amenity.*

6.22 An approach that covered both neighbourhood and street level assessment of HMO concentrations would give the council greater control in managing concentrations of HMOs. Under this approach, concentrations at a neighbourhood and street level would both be controlled, acknowledging that issues arising from concentrations of HMOs affect both neighbourhoods and individual streets. However, there is a risk that this approach could be seen to be overly onerous and given that street level assessment of HMOs is untested, the Council could be open to challenge at appeal.

You Tell Us

Question 3

Which of the following options do you think is appropriate for managing HMO's?

Option 1:

Do you think the neighbourhood area approach set out in Option 1 is the best way to manage concentrations of HMOs?

Option 2:

Do you think the street by street approach set out in Option 2 is the best way to manage concentrations of HMOs?

Option 3:

Do you think a neighbourhood and street level approach set out in Option 3 is the best way to manage concentrations of HMOs?

Residential Amenity

6.23 This purpose of this SDP is to provide guidance on the change of use from a dwellinghouse to an HMO. This may not involve any internal or external alterations to the property but the change of use in itself constitutes 'development'. The Council seeks a standard of development that maintains or enhances the general amenity of an area and provides a safe and attractive environment for all. It is recognised that HMOs can impact upon residential amenity and can 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.

6.24 Several of these issues can be most keenly felt during out of term times when properties can be empty for long periods of time.

6.25 In assessing planning applications for HMOs that fall within a neighbourhood area with less than 20% of properties being HMOs and particularly in marginal cases where a neighbourhood area is approaching the 20% threshold the Council will seek to ensure that the change of use will not be detrimental to the overall residential amenity of the area. In considering the impact on residential amenity attention will be given to whether the applicant has demonstrated the following:

- the dwelling is large enough to accommodate an increased number of residents;
- there is sufficient space for potential additional cars to park
- there is sufficient space for appropriate provision for secure cycle parking;
- the condition of the property is of a high standard that contributes positively to the character of the area and that the condition of the property will be maintained following the change of use to HMO;
- the increase in number of residents will not have an adverse impact noise levels and the level of amenity neighbouring residents can reasonably expect to enjoy;
- there is sufficient space for storage provision for waste/recycling containers in a suitable enclosure area within the curtilage of the property; and
- the change of use and increase in number of residents will not result in the loss of front garden for hard standing for parking and refuse areas which would detract from the existing street scene.

6.26 In some cases, such as parking and bin storage there are Council standards which may be useful for applicants to refer to. For further advice on the above please see the planning guidance section of www.york.gov.uk.

6.27 Permitted development rights under the General Permitted Development Order (GDPO)⁴ allow certain types of development to proceed without the need for planning permission. The most commonly used permitted

⁴ Permitted development rights are provided by the Town and Country Planning (General Permitted Development) Order 1995 (the GPDO) and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008

development rights relate to dwelling houses. The GPDO permits householders to undertake alterations, minor extensions as well as erect buildings and structures within the curtilage of a property, without planning permission. Local Authorities have the power to remove all or some of these rights on single dwellings by conditions attached to planning permissions.

- 6.28 In York, properties benefiting from a Sui Generis HMO planning permission have permitted development rights removed for certain types of development within the curtilage of the property, such as small scale extensions and alterations to the roof, such as dormer windows. Where it is considered reasonable to do so, the Council may decide that it is necessary to remove permitted development rights for properties benefiting from C4 HMO planning permission. This would be achieved through attaching planning conditions to permission for change of use to C4 HMO. In the interest of residential amenity, such planning conditions may seek to resist inappropriate alteration or extension to properties and to avoid the hard surfacing of gardens. This will ensure that HMOs with gardens are able to revert back to dwellinghouses for family occupation over the lifetime of the property. In some cases it may also be considered necessary to attach a condition to retain garages for the purposes of vehicle parking and the storage of cycles and bins.
- 6.29 Should the change of use from dwellinghouse to HMO also involve alteration, extension, or subdivision detailed guidance is provided in the House Extension and Alterations SPD and Sub Division of Dwellings SPD. These SPDs set out the planning principles that the Council will use to assess such developments and in essence, seeks to ensure that they do not have an adverse impact on residential amenity. They cover issues such as bin storage, parking, good design, appropriate extensions to protect the character of an area and private amenity space. Applicants should also consult the Interim Planning Statement on Sustainable Design and Construction which is designed to help achieve the Council's objectives for sustainable development.
- 6.30 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. This is particularly important given that the Private Sector Stock Condition Survey (2008) identified that nearly 40% of HMOs failed the decent homes standard⁵. As such, in the interest of visual amenity and where considered reasonable to do so, the Council may request that the applicant submit and implement a management plan for external areas of the property, including arrangements for the regular maintenance of gardens and bin storage. This will be secured by planning condition.
- 6.31 As set out in Section 3.0, the Council are able to secure improvements to the management and maintenance of HMOs under the Housing Act 2004. In particular, applicants are encouraged to sign up to the forthcoming accreditation scheme.

⁵ To meet the Decent Homes Standard, dwellings are required to be in a reasonable state of repair. For more information please see http://www.york.gov.uk/housing/Housing_plans_and_strategies/stockcon/

You Tell Us

Question 4

Do you think the right amenity issues have been adequately covered in this section?

Do you think the guidance in this section would contribute to addressing amenity issues arising from concentrations of HMOs?

7 Conclusion

- 7.1 The guidance in this document, setting out the approaches to determining planning applications for the change of use from dwellinghouse (Use Class C3) to HMO (Use Class C4 and Sui Generis) aims to contribute to delivering the LDF Vision for all of York's current and future residents having access to decent, safe and accessible homes throughout their lifetime. This guidance seeks to control the concentration of HMOs across the city in order to maintain community cohesion and help the development of strong, supportive and durable communities for all of York's residents. We would like your views on the approaches set out to help us determine which is the most appropriate way to assess change of use to HMO planning applications.

Background Papers

Houses in Multiple Occupation Technical Paper (2011) CYC

'Student Housing' Report to the Local Development Framework Working Group 6 September 2010 and Minutes

'HMOs and Article 4 Directions' Report to the Local Development Framework Working Group 10 January 2011 and Minutes

'The Distribution and Condition of HMOs in York' Report to Cabinet 1 November 2011 and Minutes

Annex 1: Spread of Student Housing 2000-2010



Proportion of student council tax exemptions as a percentage of all households (2000)

- 20.1 to 100 (6)
- 10.1 to 20 (15)
- 1.1 to 10 (171)
- 0 to 1 (427)

▭ Ward Boundaries



▭ Output Area Boundaries

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 **Output Area Boundaries**

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Proportion of student council tax exemption as a percentage of all households (2005)

- 20.1 to 100 (11)
- 10.1 to 20 (30)
- 1.1 to 10 (179)
- 0 to 1 (399)

▭ Ward Boundary



▭ Output Area Boundary

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Proportion of student council tax exemptions as a percentage of all households (2010)

- 20.1 to 100 (19)
- 10.1 to 20 (40)
- 1.1 to 10 (167)
- 0 to 1 (393)

▭ Ward Boundaries

▭ Output Area Boundaries

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Annex 2: Local Plan Extract

Policy H7: Residential Extensions

Planning permission will be granted for residential extensions where:

- a) the design and materials are sympathetic to the main dwelling and the locality of the development; and
- b) the design and scale are appropriate in relation the main building; and
- d) there is no adverse effect on the amenity which neighbouring residents could reasonably expect to enjoy; and
- e) proposals respect the spaces between dwellings; and
- g) the proposed extension does not result in an unacceptable reduction in private amenity space within the curtilage of the dwelling.

Justification for Policy H7

Residential extensions are generally acceptable provided they are sympathetically designed in relation to their host building and the character of the area in which they are located and do not detract from the residential amenity of existing neighbours. Particular care is needed, however, in the design of front extensions and dormer extensions. Pitched roofs on extensions will normally be the most appropriate with large, box-style roof extensions being resisted in most cases.

Policy H8: Conversions

Planning permission will only be granted for the conversion of a dwelling to flats or multiple occupation where:

- the dwelling is of sufficient size (min 4 bedrooms) and the internal layout is shown to be suitable for the proposed number of households or occupants and will protect residential amenity for future occupiers.
- external alterations to the building would not cause harm to the character or appearance of the building or area; and
- adequate off and on street parking and cycle parking is incorporated; and
- it would not create an adverse impact on neighbouring residential amenity particularly through noise disturbance or residential character of the area by virtue of the conversion alone or cumulatively with a concentration of such uses.
- adequate provision is made for the storage and collection of refuse and recycling.

Justification for Policy H8

Houses in multiple occupation (HMO's) are those occupied by a number of unrelated people who do not live together as a single household. They include

bed sits, hostels lodgings and bed and breakfasts not primarily used for holiday purposes.

The Use Classes Order (1987) does not distinguish between a dwelling occupied by a conventional household, and that of a dwelling occupied by up to six residents living together as a single household. Therefore a change of use from a family dwelling to one occupied by no more than six individuals does not constitute as a change of use.

There is potential for the number of dwellings in the City to be increased by the sensitive conversion of large dwellings. Such conversion can ensure a continued life for properties and can contribute to meeting housing need. Nonetheless, in certain situations, a concentration of such conversions can have an adverse impact on the residential environment. In considering this impact, attention will be given to the character of the street, the effect on and the amount of available amenity space, parking requirements, traffic generation and any other material planning considerations particular to the case.

The number of residential conversions will be monitored to calculate the contribution that they make to the Local Plan's housing requirement and so that the cumulative impact of several conversions in any one location can be ascertained.

Annex 3: Core Strategy Submission (Publication) Extract

Policy CS7: Balancing York's Housing Market

Proposals for residential development must respond to the current evidence base, including the findings of the *Strategic Housing Market Assessment*, *North Yorkshire Gypsy and Traveller Accommodation Assessment (2008)*, *North Yorkshire Accommodation Requirements of Showmen (2009)*, and/or other local assessments of housing need. The Local Development Framework (LDF) will support housing development which helps to balance York's housing market, address local housing need, and ensure that housing is adaptable to the needs of all of York's residents throughout their lives. This will be achieved in the following way:

- i. identifying appropriate housing sites through the Allocations Development Plan Document (DPD) and Area Action Plan (AAP) in accordance with Spatial Principles 1 and 2;
- ii. identifying sites through the Allocations DPD and AAP for at least 36 additional Gypsy and Traveller pitches in the plan period, and land to accommodate at least 13 permanent plots for Showpeople by 2019;
- iii. securing the provision of new specialist housing schemes within major housing developments, including to accommodate those with severe learning disabilities, physical disabilities and dementia;
- iv. enabling higher density development in the most accessible locations, to provide homes for young people (aged 18-25 years). These locations will offer the best access to the City Centre, higher education institutions and a range of day to day services;
- v. delivering an overall mix of 70% houses:30% flats. Sites required for specific housing types and site-specific mix standards will be identified through the Allocations DPD and AAP;
- vi. requiring that all new housing is built to Lifetime Homes standard; and
- vii. controlling the concentration of Houses in Multiple Occupation, avoiding the division of small properties, where further development of this type of housing would have a detrimental impact on the balance of the community and residential amenity.

Explanation

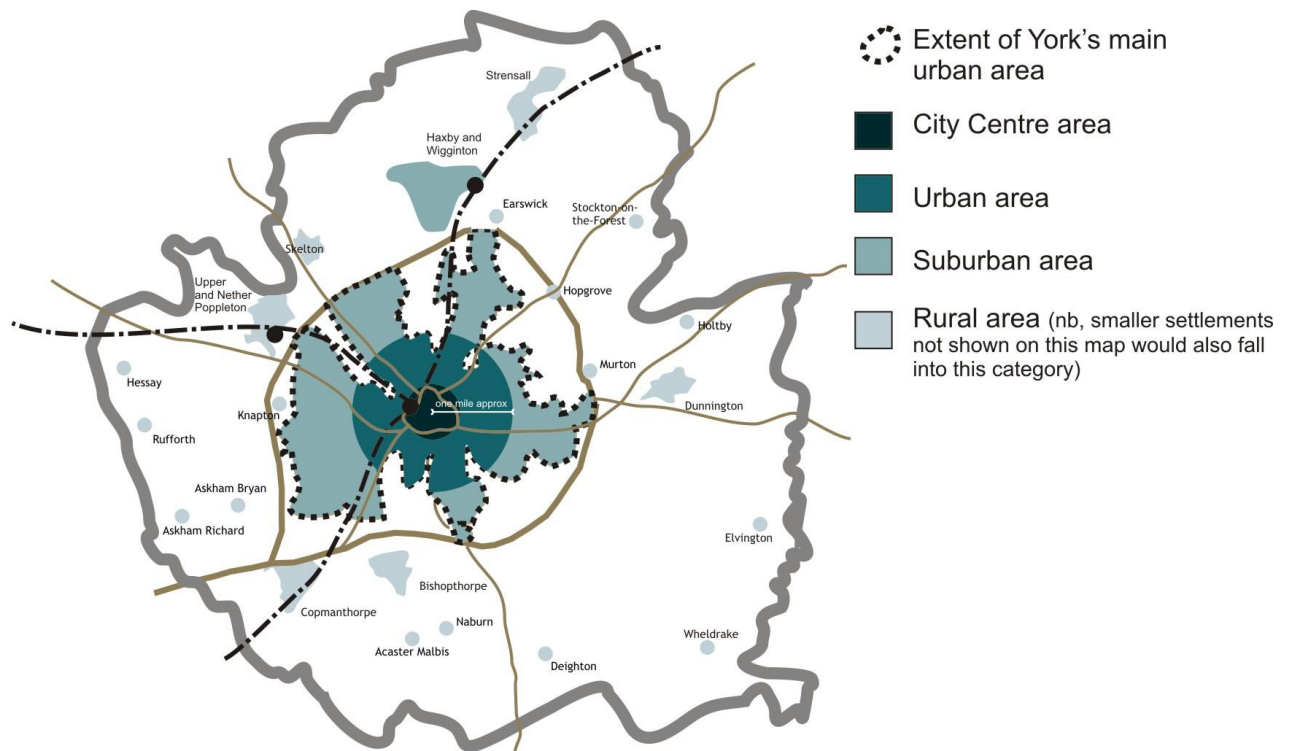
- 9.1 *Planning Policy Statement 1 (2005)* makes clear the commitment to building sustainable communities where people want to live. Section 3 'Spatial Strategy' has set out our overall strategy guiding the level and broad location of future strategic housing growth but it is not simply a question of providing more homes, policy has to consider housing quality and choice in order to help future proof communities and help deliver lifetime neighbourhoods. The Housing Strategy for York is regularly updated and reviews the housing market, conditions and needs in York and picks up on some of the headline priorities within local service plans, as well as those that have a wider regional and sub-regional significance. Strategically, its focus is on reducing the number of those in housing need, providing better access to support for those in crisis, and improving housing options across the wide range of housing

need. The supply of homes is only one part of this - alongside other partners, the LDF will help to deliver the priorities of York's Housing Strategy, and, as priorities change, undertake regular policy reviews to assess whether current and emerging needs are being addressed.

9.2 The Core Strategy will use the results of the *Strategic Housing Market Assessment (2007)* (SHMA) and, in light of recent housing mix, will prioritise houses rather than flatted development in order to help redress imbalance in the City's housing market overall. The SHMA and other housing needs assessments will be regularly reviewed in order to provide a relevant evidence base reflecting changes in the housing market over the plan period.

9.3 York's current housing areas are shown at Figure 9.1.

Figure 9.1 York's Housing Areas



9.4 At the heart of a successful policy for meeting future housing pressures must be a policy which provides for people as they grow up and leave home, grow older, and as their circumstances, options and preferences change. We must plan for homes and communities so that people can live out their lives, as long as possible, independently and safely with their families and friends around them. Building new homes and communities designed with older people in mind not only makes sense in terms of meeting the diverse needs of an ageing population, it can also help to open up housing opportunities and choices for younger people. A housing policy for an ageing society is therefore a good housing policy for everyone.

9.5 As Section 8 'Housing Growth and Distribution' made clear, this means building lifetime homes and neighbourhoods that are capable of adapting as

people's circumstances change. Lifetime Homes Standards are inexpensive, simple features designed to make homes more flexible and functional for all.

- 9.6 Over the years different housing solutions have evolved as a response to older peoples' needs. These include retirement housing for independent living, and specifically designed housing with support for frail older people and those with specific needs such as dementia. In recent years there has been a shift away from the traditional 'old peoples' home' towards models that offer much more independence and choice. In line with many other areas York has seen the development of 'extra care' housing - self contained housing with options to receive appropriate levels of care as required to sustain independent living.
- 9.7 The emerging Housing Strategy for 2011- 2015 indicates that within York there are currently around 80 specialist housing schemes providing various kinds of housing with some element of on-site care and shared facilities. Most is rented, despite there being a significant preference for owner occupation. There is also an oversupply of 1-bed affordable specialist accommodation and an undersupply of affordable 2-bed accommodation.
- 9.8 It is estimated that there are around 4,000 adults in the York area with a learning disability. There are a growing number of people with complex needs, people living longer with the possibility of early on-set dementia. Until recently, housing options were limited, with a significant number of households living in 'residential care' settings. The growing trend is for households to live independently in their own homes, with appropriate support.
- 9.9 However, we also recognise that there will be a need for further specialist housing options for a small proportion of households. Where specialist provision is required, often by those needing higher levels of care, we must ensure it serves to maximise independence by being a minimum of two bedrooms, self contained and well connected to local amenities and transport networks. We would also encourage a greater range of tenure options, including full and shared home ownership. Housing is central to health and well-being, so associated services need to be planned and integrated to reflect this.
- 9.10 Students form an important element of the community and the presence of a large student population contributes greatly to the social vibrancy of the City and to the local economy. The Council are committed to ensuring their needs are met and will continue to work with the City's higher education institutions in addressing student housing needs. However, it is also recognised that concentrations of student households, often accommodated in Houses in Multiple Occupation (HMOs), can cause an imbalance in the community which can have negative effects. These can include a rise in anti social behaviour, increases in crime levels, parking pressures and decreased demand for local shops and services, sometimes leading to closures. It can also put pressures on family housing as owner occupiers and buy to let landlords compete for similar properties and have implications for non students seeking accommodation in the private rented sector. The impacts of concentrations of student housing in York is explored in the *Houses in Multiple Occupation*

Technical Paper (2011). Monitoring the spatial distribution and impacts of student housing will allow us to identify if it is necessary to control the number of student households in certain areas to ensure communities do not become imbalanced. This control can be achieved through the removal of permitted development rights, requiring landlords to apply for planning permission to change a property into an HMO.

- 9.11 The LDF will support housing development at density levels which reduce overall demand for greenfield land and help engender community cohesion by making more intensive use of land which offers the best access to facilities and services. As would be expected, mixed development sites (those including flatted development) could achieve much higher net densities, however this would not help achieve other aspirations to deliver greater levels of family housing. As such, policy CS9 guides net 'housing' density. Higher density development will be expected in those areas with access to a quality public transport service and a good mix of shops and services. Specific sites will be identified to provide housing options for young people aged 18-25 years, offering the best access to the City Centre, higher education institutions and a range of day to day services. As such, they will be built out at higher densities and with an emphasis on providing communal, flatted development. The dual priorities of providing more family housing and raising suburban densities are compatible, and offer future residents the advantage of the best access to shops, services, and most importantly, public transport linkages.
- 9.12 Site specific density, mix and type targets will be established through the Allocations DPD, AAP and Supplementary Planning Documents and through negotiations undertaken on a site by site basis, to ensure that proposals for housing development reflect local circumstances and the outcomes of the SHMA and to restrain housing types where concentrations are unduly high. Negotiation will also be guided by local visual and amenity considerations in order to help safeguard the character of the City and its villages.