

Report of the Director of City Strategy

**Controlling the Concentration of Houses in Multiple
Occupation Supplementary Planning Document Consultation
Outcomes**

Summary

1. This report follows on from the earlier report on the draft Controlling the Concentration of Houses in Multiple Occupation (HMO) Supplementary Planning Document (SPD) considered by Members on 9 January 2012. Its purpose is to inform Members of the outcomes of the recent consultation on the draft SPD. It also seeks approval from Members for the revised SPD (attached at Annex 2 of this report) to be used to determine planning applications following the commencement of the Article 4 Direction on 20 April 2012. The SPD will remain a draft SPD until such a time as the Core Strategy has been through examination and is formally adopted by the Council.
2. The role of the SPD is to provide guidance on how planning applications for change of use to HMO will be determined in order to allow the Council to manage the spread of HMOs. It will also ensure that unsustainable large concentrations of HMOs in our neighbourhoods are not created.

Background

3. As Members are aware, HMOs make an important contribution to York's housing offer, providing flexible and affordable accommodation, not just for students but for young professionals and low-income households who may be economically inactive or working in low paid jobs. It is also recognised that there is likely to

be an increased demand for HMOs following the changes to the national benefit rules. As such, HMOs are regarded as a valuable asset to the city's housing offer. However, it is important to ensure that communities do not become imbalanced through unsustainable large concentrations of HMOs.

4. An Article 4 Direction comes 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. The Controlling Concentrations of HMOs SPD provides guidance on how these planning applications will be determined.

Consultation

5. Consultation on the draft SPD commenced on 23 January 2012 and a number of consultation techniques were used in accordance with the adopted Statement of Community Involvement (2007). Consultation ran until the 5 March 2012. During this consultation period a Focus Group Event was held.
6. A Consultation Statement has been prepared (attached at Annex 1 of this report), the purpose of which is to summarise the draft Controlling the Concentration of HMOs SPD consultation. It is not intended to replicate this document however an outline of the document distribution and publicity, alongside the headline outcomes of the Focus Group Event and consultation responses are set out below.

Document Distribution and Publicity

7. Approximately 2,900 consultees on the LDF Database, key stakeholders relevant to HMO issues and those individuals who had expressed an interest in HMOs either through their local Councillor or the Article 4 Direction consultation were sent an email, or a letter, informing them of the consultation and the opportunity to comment, alongside details of the web page and where to find more information. An internal consultation was also undertaken with relevant Officers and all Members were informed of the consultation and how to comment.
8. All of the consultation documents were made available to view and download on the Council's website. A link to an online survey was also posted on the Council's website. Hard copies of the

consultation documents were placed in all of the City of York Council libraries and at the Council's receptions at 9 St. Leonards Place, the Guildhall and Library Square. It was also possible for those who required hard copies to ring or email the Integrated Strategy team and request a copy of the documents.

9. In addition to writing to consultees and distributing the consultation documents, it was sought to further publicise the consultation. This was achieved through the following:

- A City of York Council press release was issued to coincide with the start of the consultation period on 23 January 2012 which can be seen at Annex C;
- A notice was placed in the features section of the City of York Council website homepage publicising the consultation and providing a direct link to the Draft SPD webpage as shown at Annex D;
- A public notice was published in the Evening Press on Wednesday 25 January 2012. This set out what is being consultation upon, the consultation period and ways to respond alongside where the documents are available for inspection. Please see Annex E for a copy of the notice;
- Whilst there was not an edition of Your Voice/Your Ward published within the consultation period information about the consultation was provided to all Neighbourhood Management Officers to include, as appropriate, in the powerpoint presentations that run during ward committee surgeries;
- There was no meeting planned for the Inclusive York Forum during the consultation period, to ensure that its' members were aware of the consultation and the opportunity to comment information about the consultation was circulated via email to those on the Inclusive York Forum distribution list; and
- Information was provided to the chair of the York Residents Association who briefed their Members on the consultation and how to comment. Representatives were also sought to attend the Focus Group Event.

Focus Group Event

10. A Focus Group Event was held on 21 February 2012. The purpose of the event was to cover a range of issues relating to HMOs in York. The half day event was well attended by 37 people and was pitched as structured but informal to encourage discussion. A range of stakeholders were invited including residents, landlords and representatives from the Universities. Care was taken to invite an equal mix of interested parties to ensure a balanced debate. Attendees took part in three break-out sessions, brief conclusions from these sessions are set out below. However, please see the note of the event at Annex F to the Consultation Statement which is appended to this report for more detail of the diverse range of views and opinions of those who attended the event.

11. Balanced Communities Break Out Session
A number of attendees favoured a street level approach however several alternative approaches were put forward, including upper and lower thresholds for different areas across the city and also not having an overarching policy approach and judging each HMO planning application separately. Concern was raised about the implications that may arise from imposing a restrictive policy approach.

12. Residential Amenity Break Out Session
A range of issues were discussed, however the main amenity issues considered to be a problem when there are high concentrations of HMOs were bin storage/litter, parking, property maintenance, increased crime levels and lack of community integration.

13. Raising Standards in the Private Rented Sector Break Out Session
There was scepticism about whether a voluntary accreditation scheme was the best way to help address poor standards in the private rented sector. Those likely to participate in such a scheme would be the good/responsible landlords/agents, whilst disinterested landlords could happily operate outside of the scheme given the healthy demand for private rented accommodation in the City. There was some significant support for a local compulsory scheme, such as licensing of all HMOs, in order to establish a level playing field and to ensure that all landlords complied.

Consultation Responses

14. A total of 85 responses were received. 47 people completed the comments form which incorporated a questionnaire, of which 25 completed it online via the online survey. Representations were received from a variety of groups, organisations and individuals.

Policy Approach

15. The majority of respondents did not support a neighbourhood only approach to assessing concentrations of HMOs as it was considered that this would still result in clusters of HMOs at street level. Although a number of alternative approaches were proposed, overall, respondents suggested that a threshold approach at both neighbourhood and street level was the best way to control the concentration of HMOs. A number of thresholds were proposed by respondents ranging from 0% to 40%, however the majority considered that between 10% and 15% was appropriate. A number of respondents suggested that there should be exceptions to the agreed threshold where there are only a small number of C3 dwelling houses remaining.
16. A number of comments were received in support of the policy approach set out in the draft SPD relating to consideration of residential amenity, stating that the Council's powers, policies and procedures were listed fully. Comments were also received that suggested that guidance on residential amenity alone will not contribute to addressing amenity issues and that the measures should be put in place to ensure that the guidance is enforced.

Accreditation Scheme/Licensing

17. A large number of comments were received on the issue of monitoring landlords. It was suggested by a number of respondents that strict monitoring of landlords should be undertaken by the Council and that there should be compulsory registration of landlords otherwise the worst landlords would not be under any scrutiny. It was also suggested by several respondents that additional licensing for all HMOs should be introduced which would give the Council complete control of all HMOs. It was felt by a number of respondents that a voluntary accreditation scheme will be ineffective in as a way of increasing housing standards.

18. Colleagues in Housing have been involved in the consultation process and as such are informed of the consultation outcomes with regard to the monitoring of landlords. The Council are able to secure improvements to the management and maintenance of HMOs (both internal and external) through licensing under the Housing Act 2004. 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 planning policies, such as this SPD. These measures however cannot be developed through the SPD but are covered by separate legislation under the Housing Act.

The Revised SPD

19. The proposed approach set out in the SPD has been 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 this is maintaining community cohesion and helping the development of strong, supportive and durable communities. The SPD supports Policy CS7 'Balancing York's Housing Market' of the emerging Core Strategy which for HMOs seek to control the concentration of HMOs, where further development of this type of housing would have a detrimental impact on the balance of the community and residential amenity.
20. 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 can be said to tip from balanced to unbalanced. Under the threshold approach an assessment of the proportion of households that are HMOs is undertaken within a given area.

Approach

21. In line with the outcomes of the consultation, a combined approach of both a neighbourhood and street level analysis of HMOs is proposed to determine HMO planning applications. This will seek to control concentrations of HMOs of more than 20% of

all households at a neighbourhood area and 10% at the street level. The following approach will 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 and are known to the Council to be HMOs; and*
- *Less than 10% 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 and 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.*

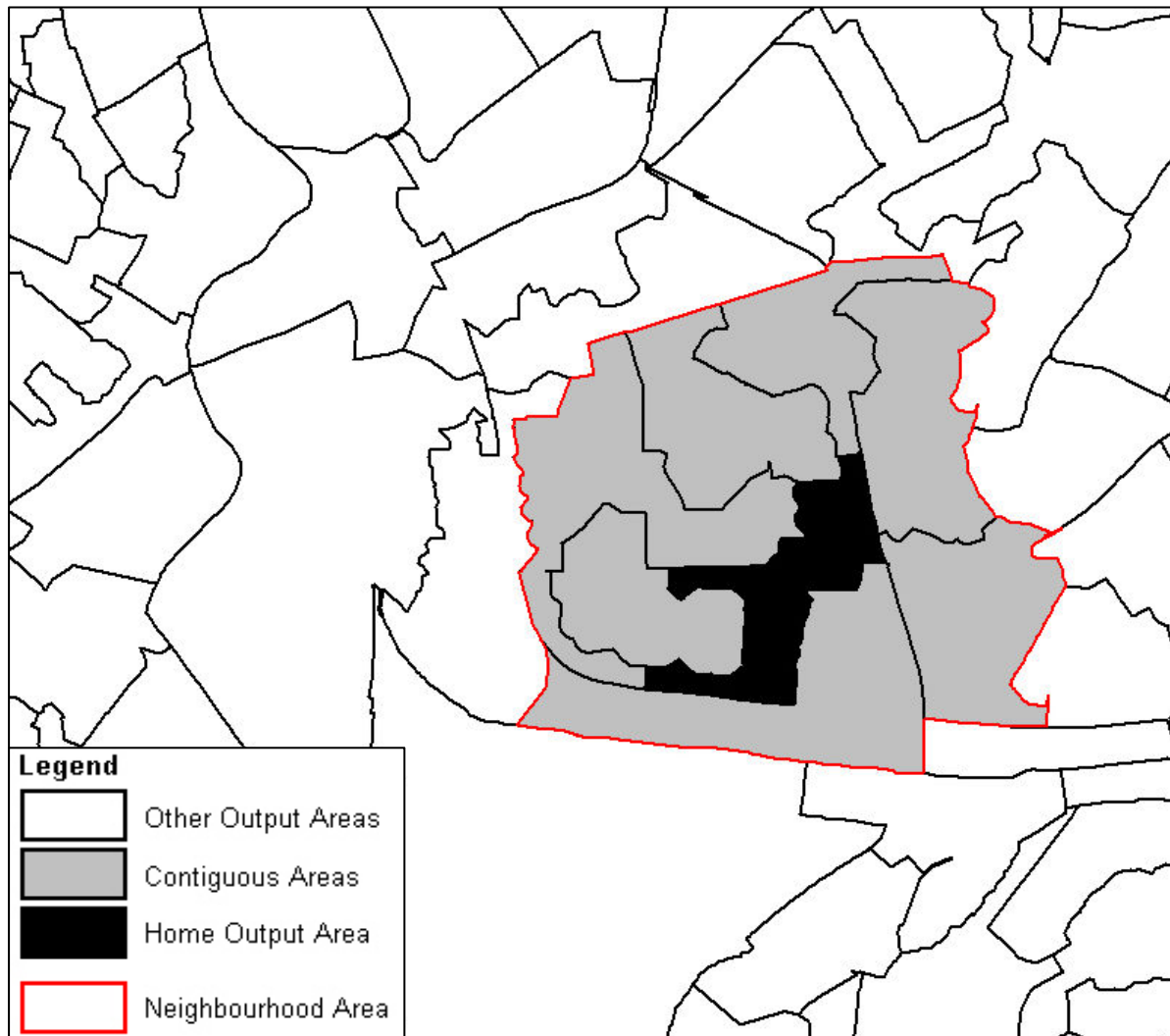
22. The aim of the policy is to continue to provide HMO accommodation to meet the City's housing needs but to manage the supply of new HMOs to avoid high concentrations of this use in an area. Given York's compact nature and well connected public transport network it is considered that the spreading out of HMOs to avoid unsustainable concentrations of HMOs will still mean that for students in particular, HMOs will remain highly accessible. Further information on the policy approach is set out below.

Neighbourhood Level

23. 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. A neighbourhood approach assessment of HMOs will address the impact large numbers of HMOs can have on decreasing demand for some local services, particularly local schools, doctor and dental surgeries and changes in type of retail provision, such as local shops meeting day to day needs becoming take-aways.

24. Following best practice, it is considered that one 'Output Area' (capturing approximately 125 households, defined by the Office National Statistics) is too small to properly represent a neighbourhood and accordingly, 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 at the neighbourhood level. An example of a cluster of Output Areas is shown at Figure 1. 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 1



Street Level









25. An assessment of concentrations of HMOs at street level will allow the Council to manage the clustering of HMOs along streets. This would prevent whole streets from changing use from dwellinghouses to HMO. Such control will 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. A street by street approach will 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.
26. It is considered that a length of 100 metres of street frontage can reasonably be considered to constitute a property's more immediate neighbours and is therefore the proposed distance

threshold for assessing concentrations of HMOs at street level. 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 is illustrated at Figure 2.

Figure 2



Legend

-  100m starting point
-  100 metres
-  100 metres
-  Properties not included
-  Properties within 100m on application street on opposite side of the road
-  Properties within 100m on same side of the road
-  Properties within 100m that turn the corner from applicaiton street
-  Application Property

Residential Amenity

27. A large number of respondents supported the residential amenity section of the consultation draft SPD. As set out in the appended Consultation Statement at Annex 1 the majority of respondents thought that the right amenity issues had been adequately covered

and that the guidance would contribute to addressing amenity issues. As such, this section of the SPD remains largely unchanged. Albeit, further detail and explanation has been added for clarity.

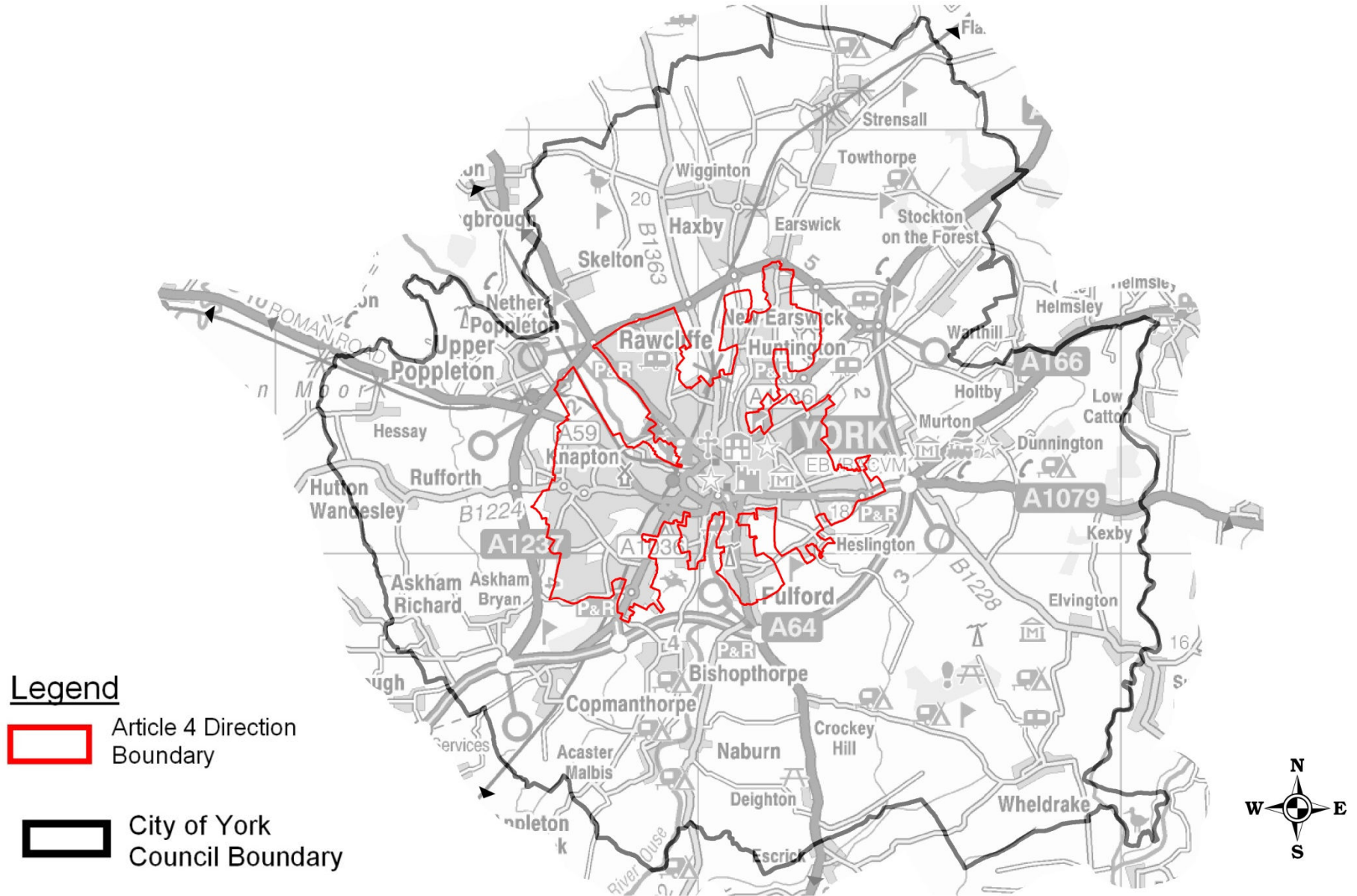
Enforcement

28. Several comments were received as part of the consultation highlighting the importance of enforcement in ensuring the provisions of SPD are implemented correctly. In response to these comments a new section has been added to the SPD. This provides information on planning enforcement and indicates that the Council can only take action on a breach of planning control when a material change of use has actually occurred, not when a property has been sold but remains unoccupied, or when it is in the process of conversion.

Scope of the SPD

29. 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 (i.e. the extent of the Article 4 Direction), as shown overleaf at Figure 3. 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 and will not apply retrospectively to existing HMOs. It should be noted that change of use from a small HMO (C4) to dwellinghouse is permitted development and does not require planning permission. However, permission is still required to change a large HMO (sui generis) into a dwellinghouse.

Figure 3



Options

30. The options below are available to Members.

Option 1: To recommend to Cabinet to approve the SPD at Annex 2 for Development Management purposes as a material consideration when determining of HMO planning applications.

Option 2: To recommend to Cabinet to approve a revised SPD with an alternative approach to assessing concentrations of HMOs

Analysis of Options

Option 1

31. The SPD at Annex 2 responds to the outcomes of the detailed consultation undertaken and a number of consultation comments have directly shaped the SPD. This includes the proposed neighbourhood and street level approach which was the preferred approach from the majority of respondents.
32. Members were previously advised that a combined 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. It should be noted that a number of Local Authorities such as Milton Keynes, Southampton, Bournemouth and Exeter are pursuing various untested approaches to assessing HMO applications arising from the implementation of Article 4 Directions.
33. An approach that covers both a neighbourhood and street level assessment of HMO concentrations will give the Council greater control in managing concentrations of HMOs. It is considered that the combined approach set out in the SPD at Annex 2 can be justified because of the varied nature of issues that can arise from large numbers of HMOs. The policy approach set out at in the SPD acknowledges that issues arising from concentrations of HMOs affect both neighbourhoods and individual streets and that this requires different approaches.

Option 2

34. Members may wish to pursue an alternative approach, such as one of the approaches suggested by respondents through the consultation (please see Annex 1). There is a risk however that should an alternative approach be explored there may not be a

policy in place when the Article 4 Direction comes into force on 20 April 2012.

Council Plan

35. Exploring the impacts of HMOs relates to the following Council Plan Priorities:

- Build strong communities.
- Protect vulnerable people.
- Protect the environment.

Implications

36. The implications are as listed below:

- **Financial:** None
- **Human Resources (HR):** None
- **Equalities:** None
- **Legal:** None
- **Crime and Disorder:** None
- **Information Technology (IT):** None
- **Property:** None
- **Other:** None

Recommendation

37. That the LDF Working Group recommends the Cabinet to:

- i) approve the attached draft SPD to be used for Development Management purposes in accordance with Option 1; and
- ii) delegate to the Director of City Strategy in consultation with the Cabinet Member City Strategy the making of any changes to the SPD that are necessary as a result of the recommendations of the LDF Working Group.

Reason: So that the SPD be approved and used for Development Management purposes to support the emerging LDF Core Strategy and the Article 4 Direction which comes into force on 20 April 2012.

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**Report
 Approved**



Date 16 March
 2012

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

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*

*'Minutes of Working Groups' Report to Executive 1 February 2011
 and Minutes*

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

*'Controlling the Concentration of Houses in Multiple Occupation
 Supplementary Planning Document' Report to Cabinet 10 January
 2012 and Minutes*

Annexes

*Annex 1: Controlling the Concentration of Houses in Multiple
 Occupation Supplementary Planning Document Consultation
 Statement (March 2012)*

*Annex 2: Draft Controlling the Concentration of Houses in Multiple
 Occupation Supplementary Planning Document (March 2012)*