

Report of the Director of City Strategy

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

**Summary**

1. The purpose of this report is to seek approval from Members for the draft Supplementary Planning Document (SPD) on controlling the concentration of Houses in Multiple Occupancy (HMOs) (attached at Annex 1 of this report) to be published for consultation.
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. Houses in Multiple Occupation 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. 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.

4. 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. The Controlling Concentrations of HMOs SPD provides guidance on how these planning applications will be determined.
5. It is not intended that this report replicate the detailed evidence base work undertaken. However, for more information please see the background papers listed at the end of this report.
6. The SPD supports Policy CS7 'Balancing York's Housing Market' of the emerging Core Strategy. This policy seeks housing development that helps to balance York's housing market, address local housing need and ensuring that housing is adaptable to the needs of all of York's residents throughout their lives. With regard to HMOs, the LDF will 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.

### **The Draft SPD**

7. 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.
8. There is evidence (set out in the background papers listed at the end of this report) to demonstrate that it is necessary to control the number of HMOs across the city to ensure that communities do not become imbalanced. 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.

9. Under the threshold approach an assessment of the proportion of households that are HMOs is undertaken within a given area. As such, it is important to consider the geographic level at which the threshold should be applied.

### *Assessing concentrations of HMOs*

#### Neighbourhood Level

10. It is considered that for York, issues arising from concentrations of HMOs can be a neighbourhood matter, going beyond the immediate area of individual HMOs. Accordingly, a consistent and robust understanding of a 'neighbourhood area' has been developed. The following approach is proposed 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<sup>1</sup> 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.*

11. A threshold of 20% is considered to allow for flexibility for some new HMOs to be created in appropriate areas. Essentially, where a large concentration of HMOs does not currently exist it would still be acceptable for the use of a dwelling to change from C3 to C4 or Sui Generis HMOs. However, 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%

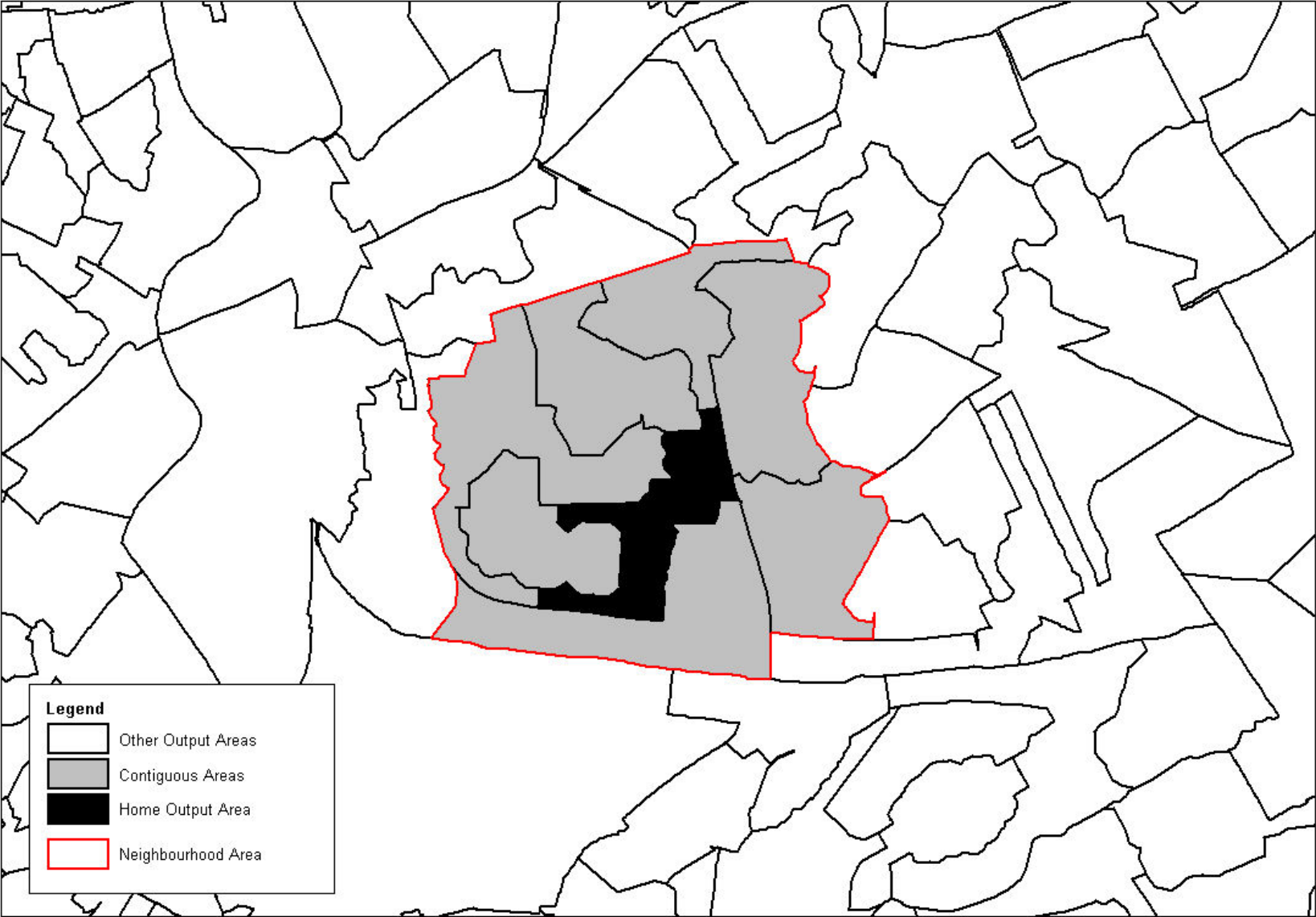
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<sup>1</sup> Sui Generis meaning 'of its own kind'. In a planning sense this relates to uses that do not fall within the four main use class categories. Sui Generis HMOs are known as large HMOs where 6 or more unrelated people share a dwelling

concentration of HMOs, a thorough assessment of the impact additional HMOs will have on the neighbourhood area would be undertaken to establish if it is appropriate for further change of use to take place.

12. It has been necessary to establish an understanding of how a neighbourhood area could be defined. Output Areas (capturing approximately 125 households), defined by the Office for National Statistics were considered to provide the only independently defined and convenient geographical units for the purposes of such an approach. Following best practice in Charnwood Borough Council and Nottingham City Council, 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. An example of a cluster of Output Areas is shown below at Figure 1 below. The 'home output area' is where the planning application is located.

Figure 1



13. It is considered that some issues arising from HMOs can reliably be measured across a neighbourhood area. This is because 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, 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.
14. 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.

#### Street Level

15. 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.
16. 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%.
17. 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 2**



18. 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.*

19. 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.

20. 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.

21. 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. Furthermore, York's HMO evidence base analysis is not on a street by street basis.

### Neighbourhood and Street Level

22. 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.*

23. 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.

### *Residential Amenity*

24. The Council seeks a standard of development that maintains or enhances the general amenity of the area and provides a safe and attractive environment for all. The SPD recognises that large concentrations of HMOs can impact upon residential amenity

issues such as increased parking pressures and noise between dwellings, especially at night.

25. In assessing change of use planning applications for HMOs the SPD proposes that 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 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 gardens for hard standing for parking and refuse areas which would detract from the existing street scene.
26. Should the change of use 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.

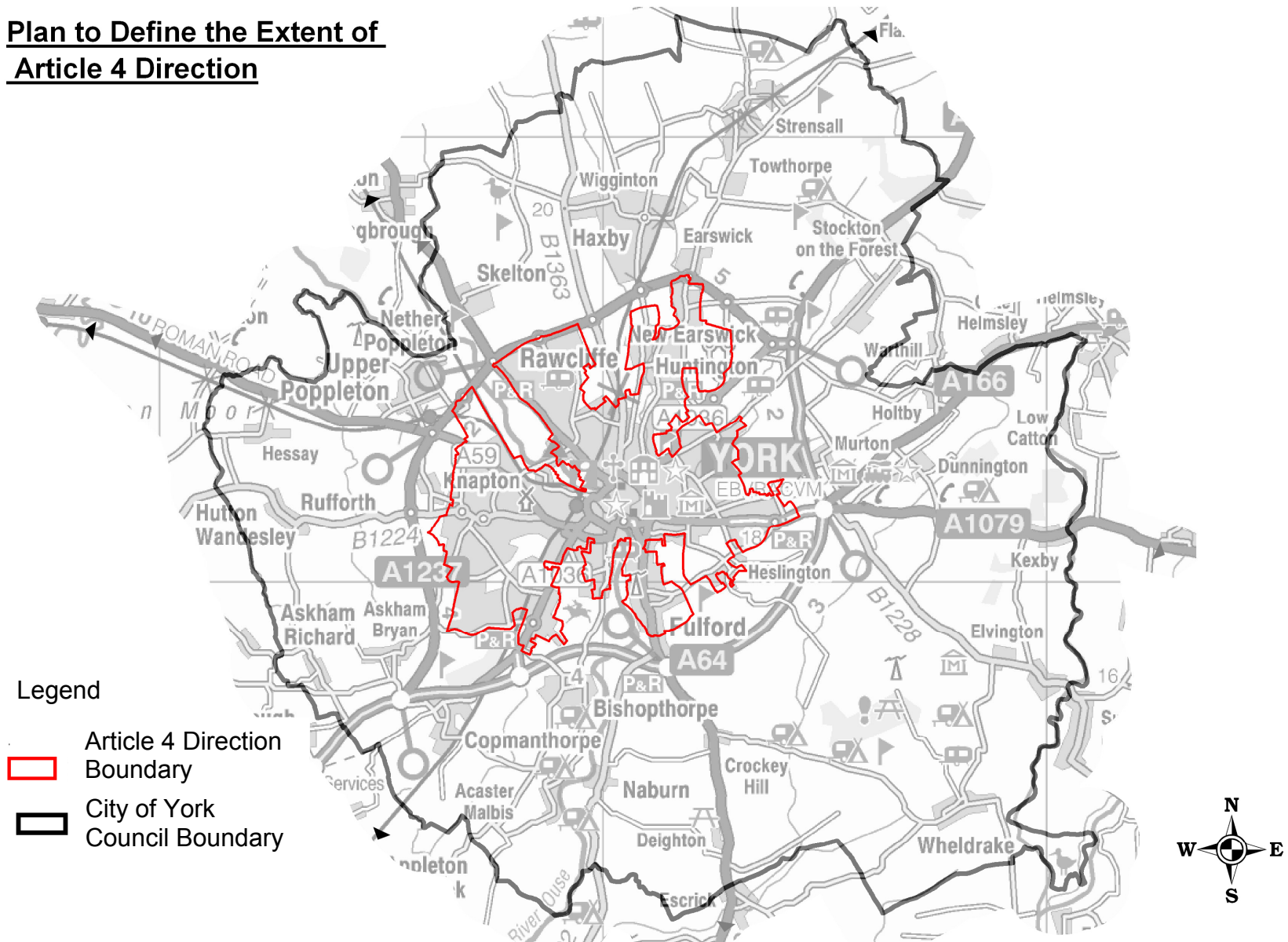
### **Scope of the Draft SPD**

27. 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 below 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.

Figure 3

**Plan to Define the Extent of Article 4 Direction**



## **Consultation**

28. The public consultation will last for six weeks, beginning early in the New Year. The consultation will seek views on the threshold of when a community tips from balanced to unbalanced, alongside which approach is considered most appropriate to assess concentrations of HMOs. In accordance with the adopted Statement of Community Involvement (2007), there will be material on the website, press releases and letters. Those who responded to the recent consultation on the Article 4 Direction where contact details are available will also be contacted. It is proposed that the consultation will include a focus group event to explore student housing issues and discuss balanced communities and a threshold of when a community becomes imbalanced. A wide range of stakeholders will be invited including representatives from the Universities, residents groups and landlords.
29. A consultation statement detailing the outcomes of the consultation and a final draft SPD for adoption will be reported to the LDF Working Group and Cabinet in March/April 2012. This will ensure that the SPD is in place at the time the Article 4 Direction comes into force on 20 April 2012.

## **Options**

30. The options below are available to Members.

**Option 1:** To recommend to Cabinet to approve the SPD at Annex 1 for consultation

**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. This option will provide consultees with information on the approaches available to assessing concentrations of HMOs and the pros and cons with each approach. This will allow consultees to fully consider the options available to assess concentrations of HMOs.

### *Option 2*

32. Members may wish to propose an alternative approach. This could include pursuing a stricter approach to determining HMO planning

application. Alternatively Members may decide that the proposed approaches are too restrictive.

### **Council Plan**

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

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

### **Implications**

34. 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**

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

- i) approve the attached draft SPD for consultation 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 can be consulted on, and amended accordingly ahead of it being 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.

## Contact Details

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**Report  
Approved**

**Date** 21<sup>st</sup>  
December  
2011

**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*

## Annexes

*Annex 1: Controlling the Concentration of Houses in Multiple Occupation Supplementary Planning Document – Consultation Draft (December 2011)*