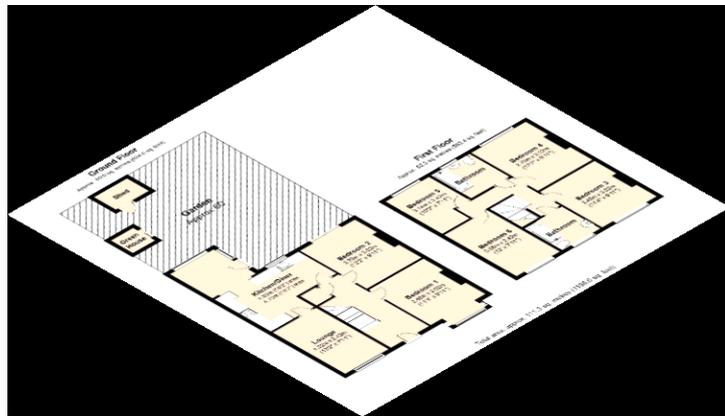
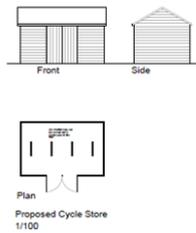


# House in Multiple Occupation (HMO) Planning Guidance

September 2019



## Introduction

- 1.1 In a House in Multiple Occupation (HMO) residents typically share kitchens, lounges and bathrooms.
- 1.2 HMOs are different to a single dwelling house because they are different in character. There is concern about the proliferation of HMOs in Wolverhampton because they give rise to anti-social behaviour and cause a fear of crime. Police evidence is that crimes are more likely to be committed in HMOs than other tenures in Wolverhampton.
- 1.3 To address this issue the Council, as the local planning authority, has introduced an Article 4 Direction that means all proposals for HMOs of three or more people **require planning permission**. This allows the local planning authority to consider each planning application on its own merits, considering:
  - The impact on the character of the area, taking account of the character of the existing use compared to the character of the proposed use;
  - The potential for anti-social behaviour and fear of crime, considering evidence from neighbours, key Council partners and the Police;
  - The creation of safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion;
  - The potential impact on highway safety.
- 1.4 This document provides informal **planning guidance** for applicants, neighbours, officers and Councillors.

## Policy and Housing Policies

### Planning Policy

- 1.5 Government planning policy is set out in the National Planning Policy Framework. Paragraph 127 states that planning should ensure that developments will function well and add to the overall quality of an area, providing a high standard of amenity for all existing and future occupants of land and buildings.
- 1.6 Black Country Core Strategy policy HOU2 requires a range of housing types, tenures and densities to provide choice and create sustainable communities, to meet identified sub-regional and local needs. Furthermore, it requires *'the need to achieve high quality design and minimise amenity impacts, taking into account the characteristics and mix of uses in the area where the proposal is located'*.
- 1.7 Black Country Core Strategy Policy CSP4 (Place-Making) requires a positive contribution to place-making and environmental improvement taking into account:
  - A high quality of design;

- An appropriate mix of building designs and types which seek to enhance the unique attributes the area offers in terms of its local character and heritage;
- Creating safe and secure places by organising the urban environment that encourage people to act in a civil and responsible manner;
- Ensuring an appropriate intensity of use in all areas.

### **Housing Policy**

1.8 HMOs are also guided by **separate legislation** under the Housing Act 2004. This sets out the definition of HMOs and controls the standard and safety of accommodation. Internal requirements for room sizes and cooking/washing facilities are set out in adopted amenity and space standards for licensed and non-licensable HMOs. Whilst these standards are guidance, failure to comply with them, can result in overcrowding notices being served and ultimately prohibition of rooms. Amenity and space standards are available from the Council website:  
<https://www.wolverhampton.gov.uk/sites/default/files/pdf/HMO-amenities-2018.pdf>

1.9 The Housing Act also requires a mandatory **property licence** when all the below apply:

- A HMO is occupied by 5 or more persons regardless of age from 2 or more households;
- Tenants are living in the property as their main or only residence;
- There are shared facilities such as kitchen, bathroom and or toilet.

Advice on how to apply for a HMO Housing Act **property licence** is available from:

<https://www.wolverhampton.gov.uk/housing/house-multiple-occupation-licence>

### **Key issues to consider when determining HMO proposals**

1.10 Each **planning application** for a HMO is considered on its own merits. The fact and degree to which the following considerations are relevant will vary from case to case.

#### **Character and appearance**

1.11 The character of the area will be assessed as part of the planning application process to ensure the proposed HMO is acceptable. For example, an area might be characterised by terraced family houses, larger detached properties or have a varied mix of building types and uses. A proposed change may have an unacceptable detrimental impact on the character of the area.

1.12 A proposed HMO should not result in parking dominated frontages or loss of rear garden land. Inadequate garden space, unduly prominent bin storage areas or an intensification of the use resulting in increased comings and goings in a quiet street/area may all have a detrimental impact on the character of an area.

- 1.13 Significant alteration of the external appearance of the building or the immediate space around it may harm the existing character of an area.

#### Conservation Areas

- 1.14 There is a more stringent legal test to follow when considering HMOs within Conservation Areas. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of **preserving or enhancing** the character or appearance of a Conservation Area.

#### Listed Buildings

- 1.15 Section 66(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*, as amended, requires special regard to the desirability of preserving the building or its setting. Paragraphs 132 to 134 of the National Planning Policy Framework state that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
- 1.16 This means that considerable weight and importance must be given to any harm caused to heritage assets in the planning balance. This includes any harm to the setting of a listed building.

#### Internal floor areas

- 1.17 Future residents should benefit from a reasonable internal living space. This Council has adopted amenity and space standards for licensed and non-licensable HMOs which provides an objective guide to acceptable standards in terms of room sizes and facilities.

#### Future residents and neighbours' amenities

- 1.18 In addition to providing a satisfactory internal living space, future residents should have outdoor amenity space for sitting out, play and drying clothes. Proposed outdoor space will be assessed regarding privacy, quality and usability.
- 1.19 A proposed HMO should not result in significant loss of privacy for neighbours from overlooking. This could be particularly relevant for upper floor windows, as bedrooms in HMOs tend to be more intensively used than bedrooms in single dwelling houses.
- 1.20 The number of coming goings (people and vehicles) from a proposed HMO, and general activity around it can greatly increase, causing noise and disturbance for neighbours.

#### Crime and anti-social behaviour

- 1.21 A proposed HMO should not increase the potential for anti-social behaviour, crime and the fear of crime. Evidence from neighbours and the Police will be taken into account.

- 1.22 Paragraphs 91 and 127 of the National Planning Policy Framework recommend that local planning authorities ensure their policies and decisions aim to create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion. Furthermore, the Police and Justice Act 2006 imposes an obligation on every police authority and local authorities to consider crime and disorder reduction in the exercise of all their duties.
- 1.23 Black Country Core Strategy policy ENV3 (Design Quality) requires development proposals to consider crime prevention. The courts have held that there must be some reasonable evidential basis for the fear of crime and adverse effects to be justified. Police evidence is that crimes are more likely to be committed in HMOs than other tenures in Wolverhampton.
- 1.24 The Council recognises the importance of continued strong links and a positive working partnership with West Midlands Police in considering planning applications. For all HMO proposals, advice will be sought from West Midlands Police. The Police are in a unique position to assess and predict the likelihood of crime and anti-social behaviour.
- 1.25 The Council may request sight of a Tenancy Management Scheme to show how tenants would commit to approved standards and practices when living in the HMO and actions the Landlord would take to deal with tenants breaching this. The proposed management regime would need to minimise the opportunity for anti-social behaviour to occur, which may reduce the fear of crime.

**Parking and the potential impact on highway safety**

- 1.26 A HMO should not cause significant detriment to pedestrian safety and the safe and free flow of road traffic.
- 1.27 The National Planning Policy Framework (NPPF) seeks to resist development which would have an unacceptable impact on highway safety. It also states that transport policies have an important role to play in facilitating sustainable development and developments should be designed so that journey times are minimised.
- 1.28 Factors such as whether the site is in a sustainable location, with good access to public transport, or within easy walking and cycling distances of local services, places of education and community facilities will help with the Council's assessment of parking levels required.
- 1.29 For HMOs in Wolverhampton, 0.5 parking spaces per bedroom provides a general guide for likely demand. This level of provision acknowledges that HMOs tend to attract occupiers with lower-than-average levels of car ownership compared to the general population. It also provides a basis on which to compare the parking demand between the existing dwelling and the proposed HMO. However, parking demand will vary depending on location and property, so careful judgement is required on a case by case basis.

- 1.30 In areas where houses rely on on-street parking only, the Council will determine whether the proposed use will generate a greater parking demand or vehicle trips than the existing house. Where it would significantly add to congestion, there should be off-street parking provided or the proposal is likely to be refused.
- 1.31 Tandem off-street parking bays are not acceptable for HMOs, as they can be difficult to manage for occupants who are unrelated. Bays could be underutilised and result in additional on-street parking.
- 1.32 The provision of off-street parking may result in the replacement of traditional front gardens with open hard standing and the removal of front and side boundary walls, these elements often add to local distinctiveness. This often creates a negative impact on the existing character of the street and, in some cases localised flooding, and will, therefore, be resisted.
- 1.33 Detriment can be caused by off-street parking areas in rear gardens of properties. This increases noise disturbance to adjacent neighbours, who can expect a more tranquil environment in private amenity areas.
- 1.34 The provision of secure cycle parking for residents is encouraged.

#### **Bin storage**

- 1.35 HMOs should provide make acceptable provision for bin storage that will not harm the character of the area or residential amenities.

#### **Help available for applicants for planning permission and neighbours**

- 1.36 Anyone considering creating a HMO should contact the Council for informal free advice from a planning officer. Neighbours can also obtain free advice by speaking to a planning officer. Please call 01902 556026 or e-mail [planning@wolverhampton.gov.uk](mailto:planning@wolverhampton.gov.uk)
- 1.37 Please note internal alterations to the building may require Building Regulations approval to ensure the building is converted to ensure the health, safety, welfare and convenience of people using them. Please call 01902 55595/6 or e-mail [building.control@wolverhampton.gov.uk](mailto:building.control@wolverhampton.gov.uk)
- 1.38 Advice on fire safety for HMOs is contained in 'A Guide to Fire and Security Protection in Multi-Occupied Residential Properties' which has been produced jointly with other partner organisations, which includes the Police and Fire Service. A copy of this guide is available from [www.homestamp.com](http://www.homestamp.com)