

Houses in Multiple Occupation in Bath

Draft Supplementary
Planning Document

Draft Paper July 2017



For more information on Houses in Multiple Occupation in Bath please contact the Planning Policy team at: planning_policy@bathnes.gov.uk

This document can also be viewed on our website: www.bathnes.gov.uk/hmo

Houses in Multiple Occupation in Bath can be made available in a range of languages, large print, Braille, on tape, electronic and accessible formats by contacting Planning Policy on:
Telephone: 01225 477548
Fax: 01225 394199

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1.0 Introduction

1.1 Purpose

This Supplementary Planning Document (SPD) accompanies Placemaking Plan Policy H2 and sets out Bath & North East Somerset Council's approach to the distribution and dispersal of Houses in Multiple Occupation.

It aims to encourage a sustainable community in Bath, by encouraging an appropriately balanced housing mix across Bath, supporting a wide variety of households in all areas.

The SPD does this by setting out criteria for assessing planning applications required by the introduction of an Article 4 Direction for the change of use from Family Homes (Use Class C3) to Houses in Multiple Occupation (Use Classes C4 and Sui Generis) across the entire City of Bath.

The Houses in Multiple Occupation in Bath SPD alongside the Article 4 and Additional Licensing were adopted in July 2013. A threshold approach was introduced to determine planning applications for new HMOs. The review of the performance of the original SPD was undertaken and this SPD reflects more up-to-date evidence and comments received through the reviewing process. The main changes in this revised SPD are to apply a 10% threshold rather than the 25% and to introduce a sandwich policy to address the issue where a residential property is sandwiched between two HMOs.

It is important to note that planning applications are assessed against national and local planning policy and all other material considerations. Requiring an application to be submitted does not mean that all will be refused; rather it allows the Council to assess each case against agreed criteria before making a decision

1.2 Scope

A Supplementary Planning Document (SPD) is intended to provide further detail supporting policies in the Development Plan. It does not have Development Plan status, but it will be accorded significant weight as a material planning consideration in the determination of planning applications. The provisions of any SPD cannot, therefore, be regarded as prescriptive but they can provide a powerful indicative tool in the interpretation and application of the policy.

This document does this by setting out key decision making criteria for determining the following types of planning application:

- Applications for a change of use from a C3 (dwelling house) to C4 HMO where permitted development rights have been withdrawn via an Article 4 Direction covering the entire City of Bath (see map 1)
- Applications for change of use to large HMOs of more than 6 people, where there is a material change of use.

1.3 Policy Context

National

The National Planning Policy Framework sets out a need to provide a mix of housing supply to provide for current and future generations and to “create sustainable, inclusive and mixed communities”.

Local

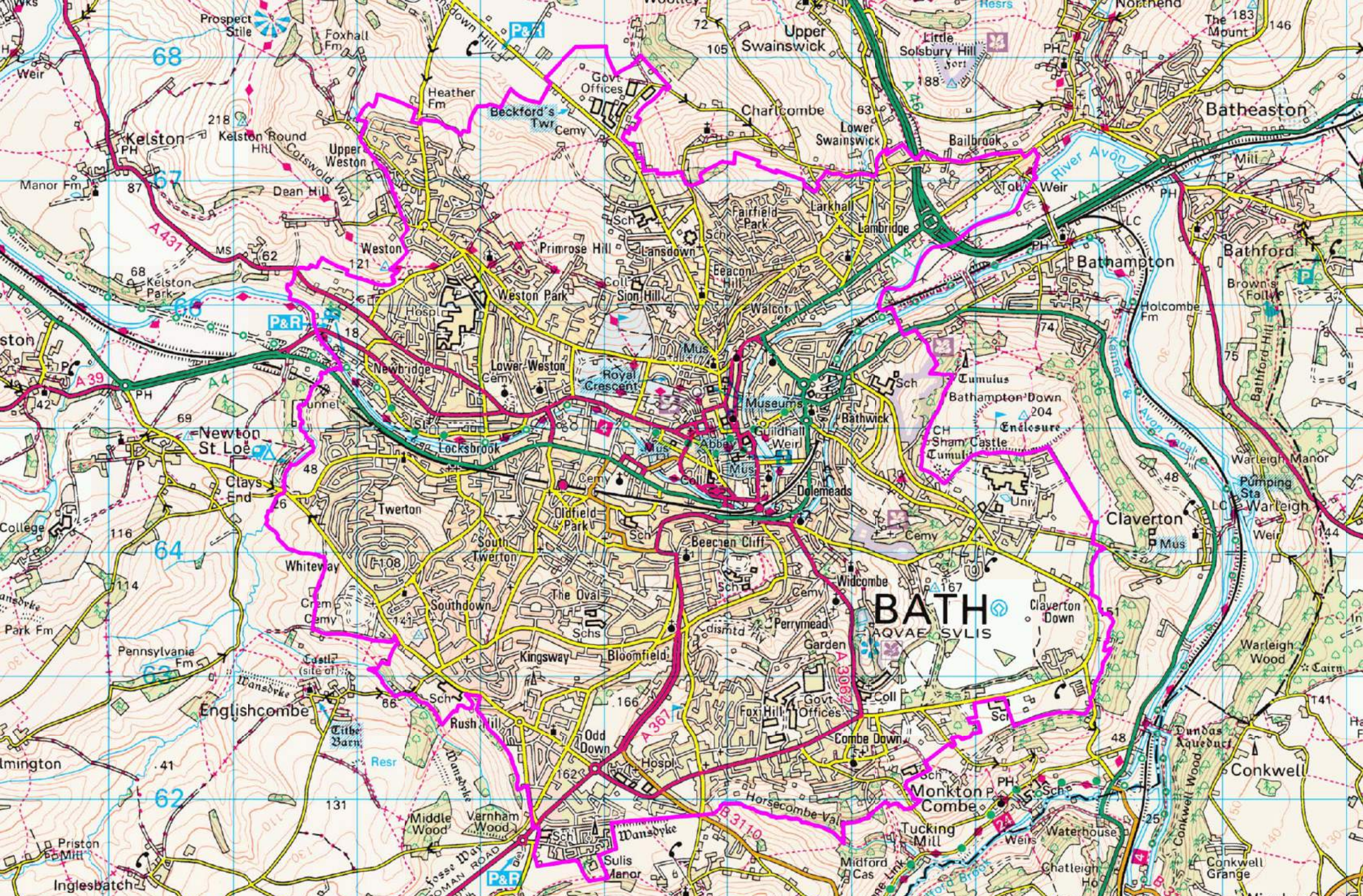
This SPD supplements Placemaking Plan Policy H2, which is set out below. Also of key relevance are Core Strategy Policies CP10 (Housing Mix) and B1 (Bath Spatial Strategy).

POLICY H2: Houses in Multiple Occupation

District-wide a change of use from residential (C3) to a large HMO (Sui Generis use class) will require planning permission. In Bath, a change of use from residential to a small HMO (C4) will also require planning permission as there is a City-wide Article 4 Direction in place. The following criteria will be considered when determining these applications:

- i If the site is within Bath, and within an area with a high concentration of existing HMO (as defined in the Houses in Multiple Occupation in Bath Supplementary Planning Document, or successor document), further changes of use to HMO use will not be supported as they will be contrary to supporting a balanced community;
- ii The HMO use is incompatible with the character and amenity of established adjacent uses;

- iii The HMO use significantly harms the amenity of adjoining residents through a loss of privacy, visual and noise intrusion;
- iv The HMO use creates a severe transport impact;
- v The HMO use results in the unacceptable loss of accommodation in a locality, in terms of mix, size and type;
- vi The development prejudices the continued commercial use of ground/lower floors.



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2.0 Background

2.1 What is an HMO?

Houses in Multiple Occupation (HMOs) can be defined as houses with three or more people from two or more families living together in a residence.

Under the Housing Act 2004¹ a House in Multiple Occupation (HMO) is defined as a building or part of a building (e.g. a flat):

- which is occupied by more than one household and in which more than one household shares an amenity (or the building lacks an amenity) such as a bathroom, toilet or cooking facilities; or,
- which is occupied by more than one household and which is a converted building which does not entirely comprise self-contained flats (whether or not there is also a sharing or lack of amenities); or
- which comprises entirely of converted self-contained flats and the standard of conversion does not meet, at a minimum, that required by the 1991 Building Regulation and more than one third of the flats are occupied under short tenancies.

And the households comprise:

- families (including single persons and co-habiting couples (whether or not of the opposite sex); or
- any other relationship that may be prescribed by regulations, such as domestic staff or fostering or carer arrangements.

In 2010, the legislative planning framework for Houses in Multiple Occupation (HMOs) changed significantly with the introduction of a new planning Use Class (C4); an HMO with between three and six people. This change aligns the Use Classes Order with the definition of a HMO within the Housing Act 2004.

In accordance with Schedule 14 of the Housing Act 2004, properties that contain the owner-occupier and up to two lodgers do not constitute HMOs. To classify as an HMO, a property does not need to be converted or adapted in any way.

In order to assess a planning application all properties with extant planning permissions for HMOs are classified as HMOs even the changes have not taken place.

Flow chart 1 overleaf, sets out the process for determining whether or not your house qualifies as an HMO.

2.2 Context

The private rented housing market in Bath is complex, and there is a diverse demand for flexible housing. HMOs are occupied by a wide range of groups including young professionals, students, immigrants, asylum seekers, those on housing benefit and contract workers. HMOs therefore have an important role to play in Bath's economy. HMOs have traditionally been more concentrated in certain areas of the city, particularly in the wards of Oldfield, Westmoreland and Widcombe.

The combination of an Article 4 Direction and this SPD will manage the future growth and distribution of HMOs across the City, with the aim of creating more balanced communities.

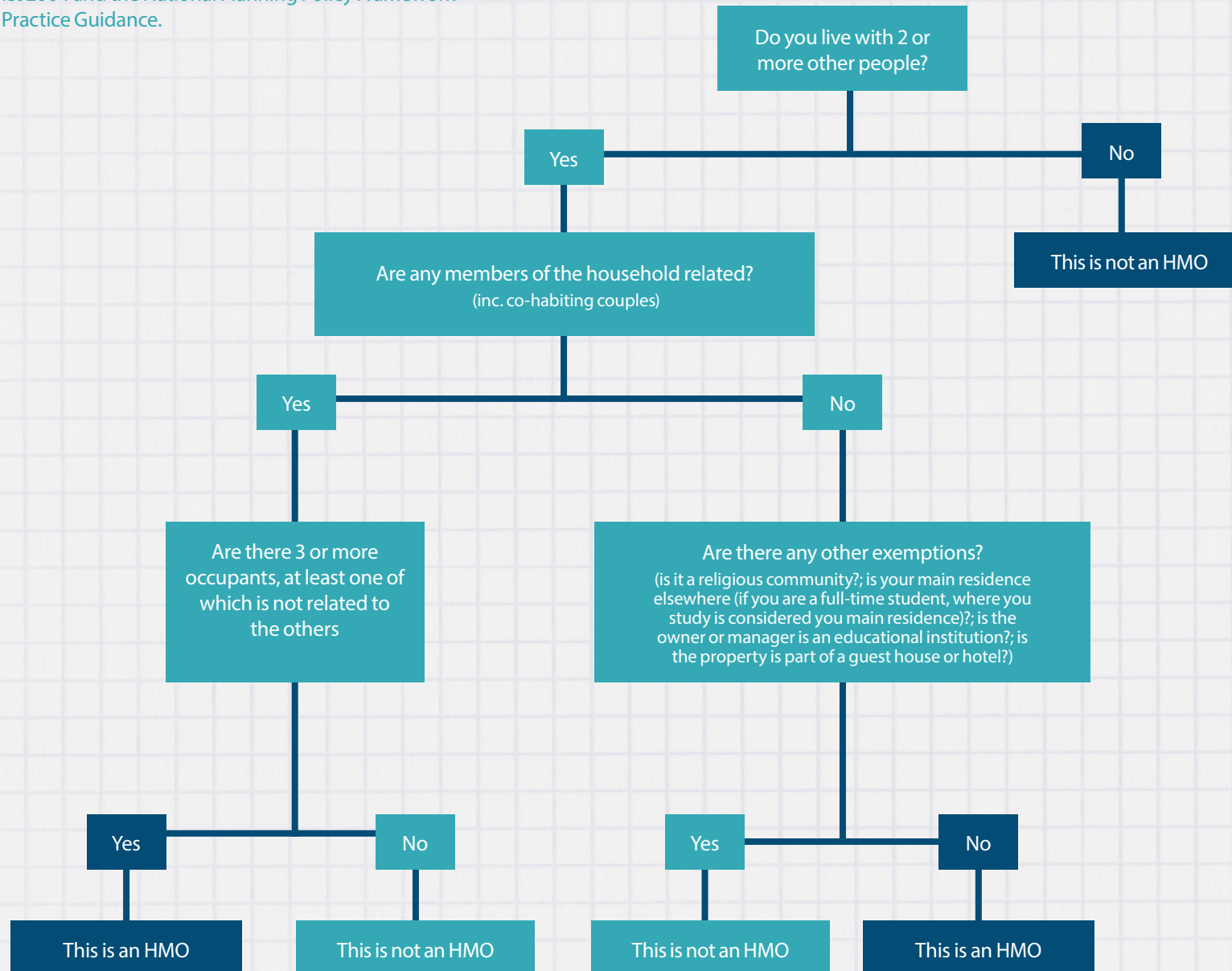


¹ Housing Act 2004, Part 254,
<http://www.legislation.gov.uk/ukpga/2004/34/section/254>

Flow Chart 1

Do you live in an HMO?

This is a guide only. For a legal definition of HMOs, please refer to the Housing Act 2004 and the National Planning Policy Framework and Planning Practice Guidance.



3.0 Supplementary Policy

Applications for the change of use from C3 dwellings to C4 or sui generis (Houses in Multiple Occupancy) will not be permitted where;

Criteria 1

It would result in any residential property (C3 use) being 'sandwiched' between two HMOs; or

Criteria 2

Stage 1 Test: The application property is within or less than 50 metres from a Census Output Area in which HMO properties represent more than 10% of households; and

Stage 2 Test: HMO properties represent more than 10% of households within a 100 metre radius of the application property.

HMOs will be defined as falling within one or more of the following categories:

- Recorded on B&NES Housing team's database as a licensed HMO;
- A property benefiting from C4 or sui generis HMO planning consent;
- Any other properties held on B&NES Housing team's database as HMOs; and
- Council tax exempt student properties.

Since the adoption of the HMO SPD, an issue has been identified with residential properties being sandwiched and the potential impact on neighboring properties.

Criteria 1 aims to prevent the potential for negative impacts upon an existing dwelling due to this sandwiching effect. It also aims to ensure that there is balance at street level.

A threshold of 10% has been proposed, based on a number of factors including local evidence (such as the statistics below), a consideration of the suitability of the housing stock and public transport corridors and existing levels of HMOs. The 10% threshold will be applied to include the entire city boundary.

Criteria 2 Stage 1 test ensures that potential applicants are given an early indication of whether their application is likely to be successful, without the need for more detailed analysis.

Criteria 2 Stage 2 test ensures a fair policy across the city, ensuring that the application site forms the centre point. A 100m radius has been set, which represents approximately a two minute walk, or your immediate neighbourhood. The following data will be used to map the areas with over 10% HMOs:

- Licensed HMOs – records from the Council's Housing team of those properties requiring an HMO licence will be utilised. This will cover both mandatory (those properties that are

three storeys or over and are occupied by five or more persons) and additional licensing;

- 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;

- Council tax exempt student properties; and

- Properties known to the Council to be HMOs – this can be established through site visits undertaken by the Council's Housing or Planning Enforcement team in response to complaints for example.

These data sets will be used to calculate the proportion of HMOs as a percentage of all households.

It is considered that these sources will provide the best approach to identifying the numbers and location of HMOs in an area, although it is accepted that it may not be possible to identify all properties of this type. There may be exiting HMOs which are occupied but unknown to the Council. In particular, on 6th April 2010 the Uses Classes Order introduced a class of HMOs to reclassify C3 dwellings to either the new C3 or C4 classes. The reclassification of existing dwellings to C4 use did not require planning permission and

therefore will not be registered on the Council's register of planning application. Planning permission was not required to convert from C3 to C4 under permitted development rights until the Article 4 Direction came into effect on 1st July 2013.

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.

Data will be updated on a quarterly basis to ensure that changes of over time are captured and that the latest data can be used in determining a planning application.

For Larger Houses in Multiple Occupation, an increase in the number of occupants of a dwelling house above six people is identified as a change of use as defined by the Use Class Order; therefore it is likely that planning permission will be required.

4.0 Assessment for Planning Applications

4.1 Criteria 1 Sandwich policy

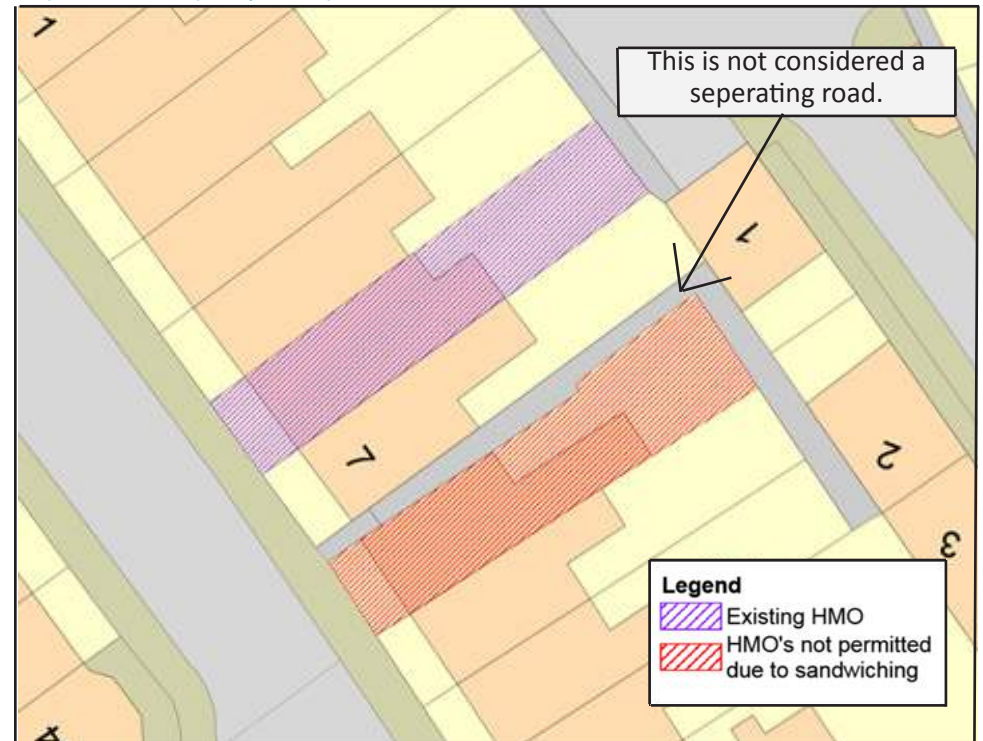
Planning permission would not be granted where the introduction of new HMO would result in an existing residential property (C3) being sandwiched by any adjoining HMOs on both sides, see worked example 1 below.

Subdivided units will be considered on a case by case basis.

Map 2 Sandwich policy example 1 1



Map 3 Sandwich policy example 2



4.0 Assessment for Planning Applications

4.2 Criteria 2 Stage 1

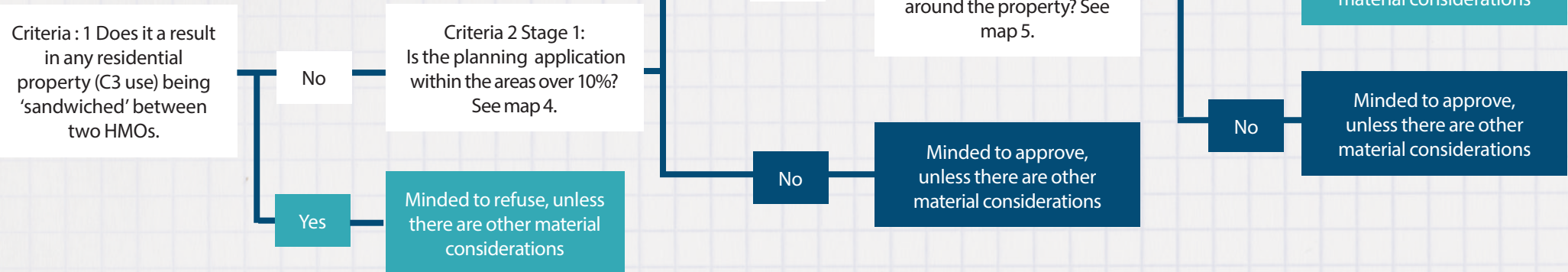
This stage will simply assess whether or not the application is within any of the areas identified on the publicly available HMO density map.

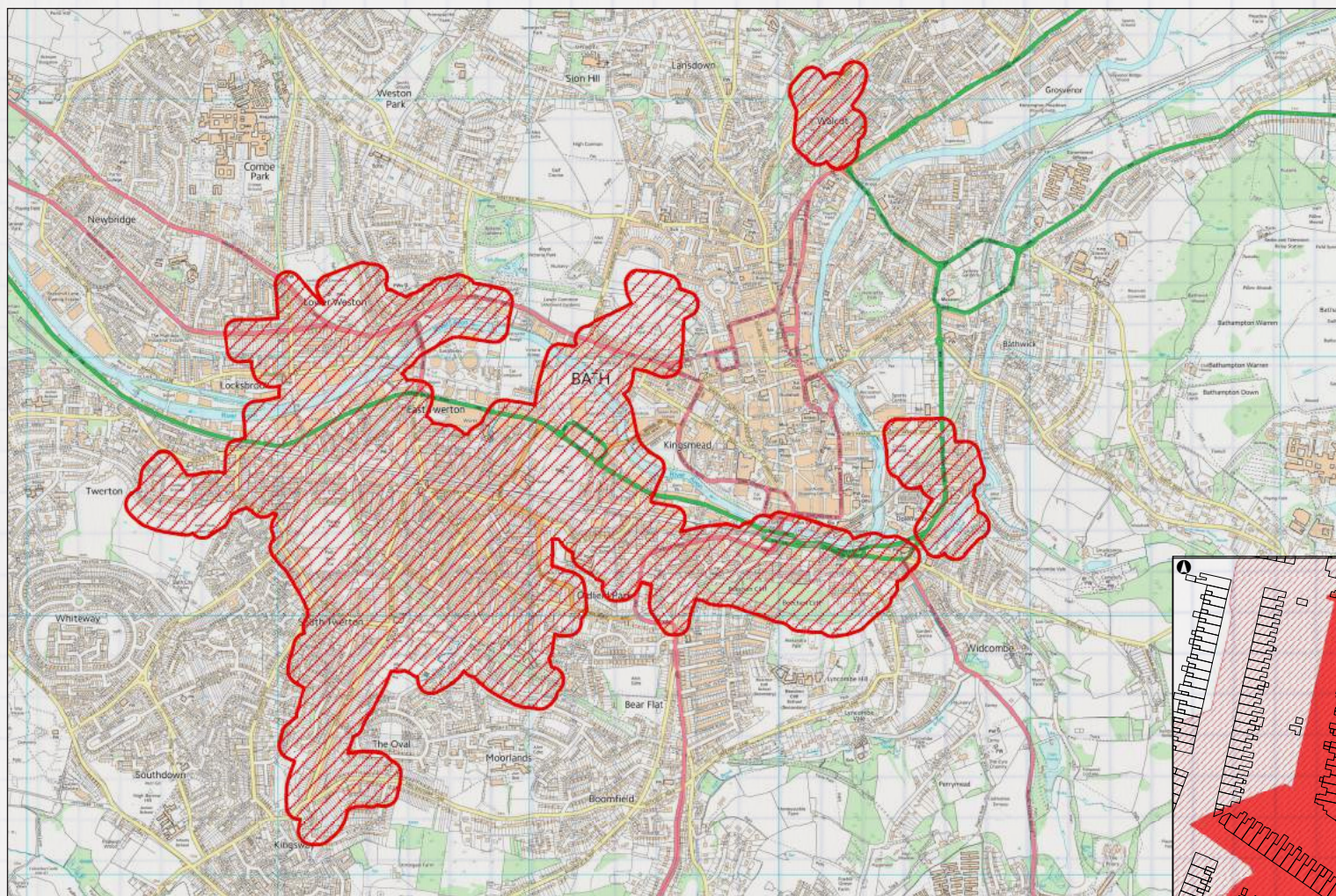
The HMO density map will show which Census Output Areas (COA) across the City are currently at or above the 10% threshold. A COA includes an average of approximately 125 households and is defined by the Office for National Statistics (ONS).

This can be seen to represent a “home-patch” as defined in Shaping Neighbourhoods: A guide for health, sustainability and vitality (Barton et al, 2003). In order to ensure that properties that may be surrounded by a high concentration of HMOs (but that lie just outside the relevant


Census Output Area) are not excluded from the assessment, a buffer of 50m has been applied to the COAs with over 10% HMOs, an example can be seen in map 4a.

Flow Chart 2
The assessment that will form the basis for planning decisions in Bath is set out in this flowchart







Legend

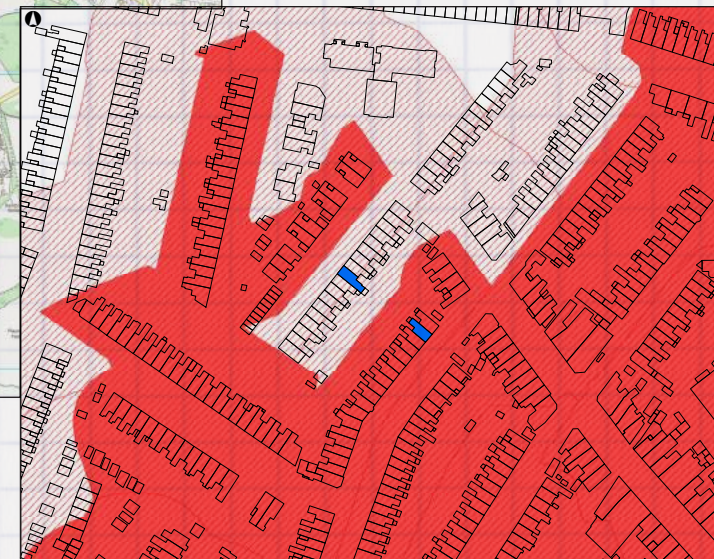
 Areas with over 10% HMOs
April 2017

↓ Map 4a
Close up inset to show how Map 4
is made up of the Census Output
Area plus a 50m buffer. Example
properties both within the red areas
on Map 4 are shown in blue.

Inset Legend

Example properties 

COAs with >10% HMO 

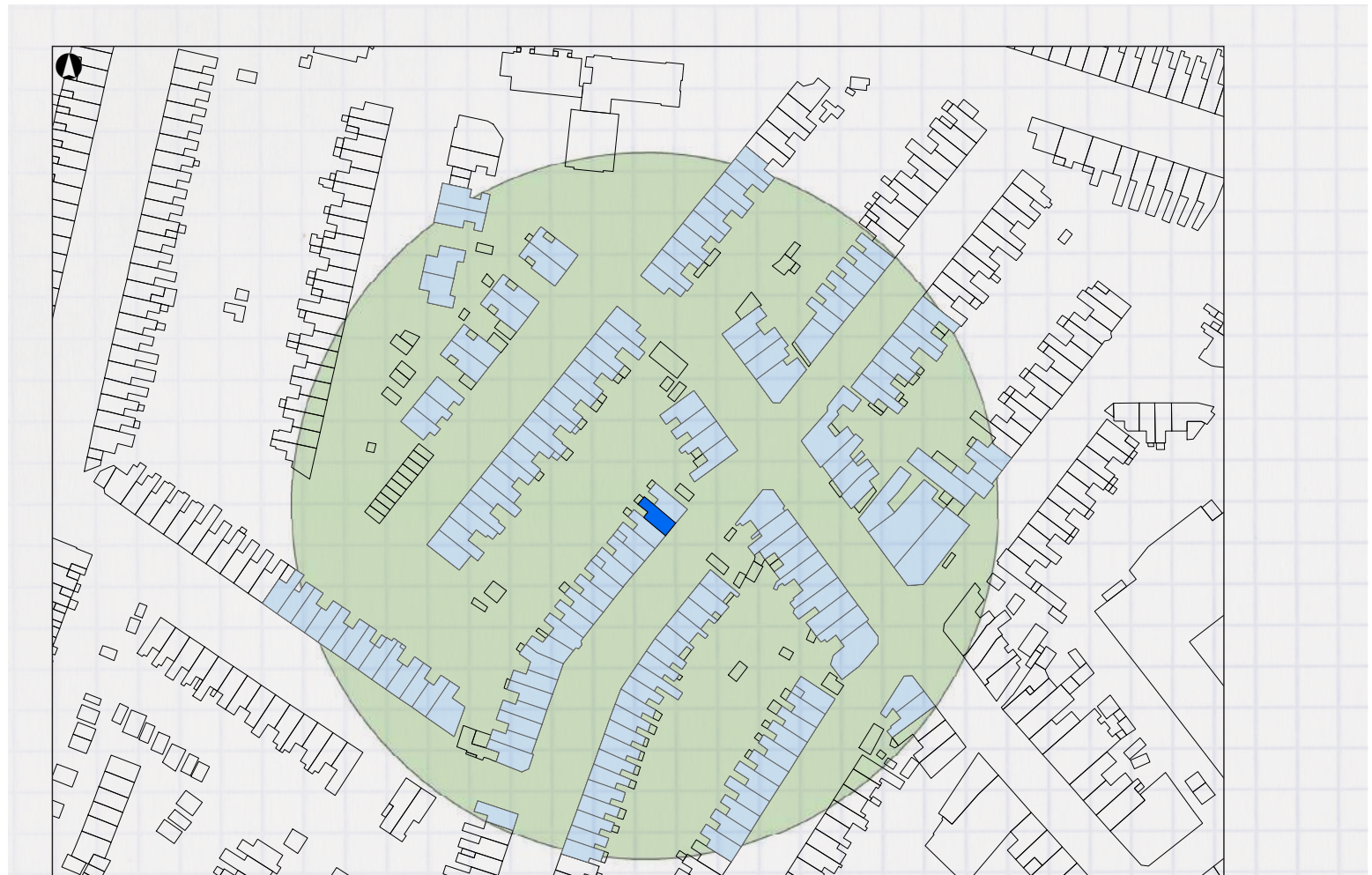


4.0 Assessment for Planning Applications

4.3 Criteria 2 Stage 2

A Criteria 2 Stage 2 assessment will only be undertaken where a Stage 1 assessment has shown that the application property is within a Census Output Area (COA) or its buffer that has over 10% density of HMOs.

The 100m radius of the application property is calculated using a buffer zone surrounding the application property from a central point in the property, as defined by the Local Land and Property Gazetteer (LLPG). For properties on the edge of the 100 metre radius buffer zone; they will be included only if their central point (as defined by LLPG) is within the buffer zone. This is demonstrated in map 5.



Map 5
Criteria 2 Stage 2 Example Assessment

Legend

- Example property ■
- Included properties ■
- 100m buffer ■

5.0 Monitoring

Changes in HMO numbers will be continually monitored and maps will be updated on quarterly basis, which will identify any changes in the HMO density in “hot-spot” areas (as defined in Criteria 2).

A key aspect of monitoring will be to look at possible displacement effects within or beyond the highly concentrated areas. It is possible, that there will be some displacement to other parts of the city of Bath.

6.0 Submission Requirements for Applicants

The Local Planning Authority is not currently able to charge a planning application fee for a change of use application from a Dwellinghouse (C3) to a House in Multiple Occupation (C4). For a change of use application the normal 8 week determination period will apply, and the following will be required:

- Application Form
- Block plan of the site (e.g. at a scale of 1:100 or 1:200) showing any site boundaries and any car parking (if on site)
- Existing and proposed floor plan
- Waste and recycling
- Bicycle parking

•Drying space

In some cases specific additional requirements may be triggered as a result of assessing your application.

NB Where building work and/or development that requires planning permission is also proposed to be undertaken, normal submission requirements for a planning application apply and a standard fee will be charged.

For more detail about submitting planning applications see our website www.bathnes.gov.uk

7.0 Other considerations

The Council also operates licencing schemes for HMOs in Bath. In addition to the current Mandatory HMO licensing, the Council has introduced an Additional Licensing scheme in Oldfield, Westmoreland, Widcombe (north and areas of Bathwick, Lyncombe, Southdown and Twerton on the 1st January 2014.

For more informaton, see www.bathnes.gov.uk/hmo



