

A Local Plan for Lancaster District

2011-2031

Residential Conversions and Houses in Multiple Occupation
Supplementary Planning Document
Consultation Draft

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LANCASTER
CITY COUNCIL

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1. Introduction

- 1.1 Concentrations of Houses in Multiple Occupation (HMOs) in have increased in recent years. Many HMOs are occupied as student houses and are concentrated in certain parts of the Lancaster City around the Universities. There are also concentrations of HMOs, some of which provide a poor level of accommodation, in the West End of Morecambe. These concentrations adversely affect the character of local communities and neighbourhoods. This arises from seasonal depopulation, divisions between social groups and lack of interaction, turnover of occupants, poor upkeep and an impact on the affordability of rented houses for families. To address these imbalances, Lancaster City Council has adopted policy DM13: Residential Conversion, of the Development Management Development Plan Document (DMDPD), which provides criteria for assessing applications for new HMO's. The Council is also considering the designation of Article 4 areas to remove permitted development rights for conversion.
- 1.2 This Supplementary Planning Document (SPD) has been published to aid property owners, planning applicants and planning officers in preparing and determining planning applications in relation to Houses in Multiple Occupation (HMOs). It sets out how the Council will apply policy DM13 to planning applications for HMO's. On adoption, the SPD will be accorded significant weight as a material planning consideration in the determination of such applications.

2. What Is A House In Multiple Occupation

- 2.1 HMO's are shared houses or flats occupied by a group of unrelated people who share some, but not necessarily all, basic facilities such as a toilet, bath/shower room and cooking facilities. In planning terms there are two types of HMO:
- Small HMO - shared houses/flats of between three to six people who do not form a single household. These HMO's fall within Use Class C4 of the Town and Country Planning (Use Classes Order). They have the same meaning as in section 254 of the Housing Act 2004, with the exception of section 257 which applies to converted blocks flats (and those buildings listed in schedule 14 of the Act).
 - Larger HMO - shared houses/flats with more than six occupants. These HMO's do not fall within any specific planning use class, therefore fall within the Sui Generis category.
- 2.2 To be classified as an HMO. The property does not need to have been modified in any way.
- 2.3 HMOs also apply to houses or flats where the landlord lives and takes in lodgers. A live in landlord can take in two 'non family' members before the property is classified as an HMO.
- 2.4 The definition includes bedsits.
- 2.5 The definition includes purpose built and houses/buildings converted into shared flats.
- 2.6 A household is either a single person or members of the same family who live together. A family includes people who are:
- married or living together - including people in same-sex relationships;
 - relatives or half-relatives, for example grandparents, aunts, uncles, siblings;
 - step-parents and step-children.
- 2.7 The reference to small and large HMO's differs from the Licensing terms, where HMO's are referred to as large HMO if there are at least 5 occupants. For information with regard to Licensing please see section 8.

3. The Aim Of The SPD

- 3.1 The aims of the SPD are:
- a. To provide guidance in respect of policy DM13;
 - b. To inform those who intend to convert / use their existing property for multiple occupation about the Council's requirements and standards for houses in multiple occupation.
 - c. To manage the future development of HMOs to ensure such developments will not lead to, or increase existing over-concentrations of HMOs which are considered harmful to local communities and to meet housing need ensuring mixed and balanced communities.

4. Planning Policy

- 4.1 The Strategic Land Allocations Development Plan Document and the Development Management Development Plan Document were adopted by the Council on the 29th July 2020.
- 4.2 Policy DM1: New Residential Development and Meeting Housing Needs, seeks to promote balanced communities and meet evidenced housing need. The Strategic Housing Market Assessment (Part II) undertook a stakeholder survey. The responses are summarised at Appendix E of that document. Respondents noted, that student lettings have increased the typical rental charge in South Lancaster. As a result, South Lancaster is no longer affordable for renting on Housing Benefit (the Local Housing Allowance rates are the same across the whole area) (paragraph E.14). The poor quality of some private rented accommodation in Morecambe is also noted.
- 4.3 In order to control the proliferation of HMO's the Council has 'made' an Article 4 Area in Lancaster to ensure that conversion of small HMO's and an increase in the number of residents require planning permission. Designation of an Article 4 Area in Morecambe will also be explored.
- 4.4 Policy DM13 forms the basis for this intervention and sets out thresholds for appropriate concentration of HMOs. Where there is a concentration of more than 10% of HMOs within a 100m radius, new HMOs will not be permitted.

Policy DM13: Residential Conversions

Proposals that involve residential conversions must meet the following criteria:

- I. Provide accommodation that will address local housing needs and imbalances in the local housing market;
- II. Contribute towards the provision of affordable housing in accordance with Policies DM3 and DM6 and the relevant policies of the Arnside & Silverdale AONB DPD;
- III. Not result in a significant detrimental impact on the amenity of nearby residents and the character and appearance of the street scene; and
- IV. Satisfy all other relevant planning policy including the requirements of Appendix H where appropriate.

Houses of Multiple Occupation (HMOs)

The Council considers the importance of maintaining an appropriate housing mix and safeguarding the character of residential areas to be important priorities. In doing so, the Council have adopted an approach of a general presumption against new housing in

The policy is continued on the next page

multiple occupation within the district. Proposals which would lead to a concentration of more than 10% of houses being classed as HMOs of the total housing stock within a 100m radius will not be considered acceptable. This includes proposals for changes of use to HMOs, or extensions to existing HMOs.

The Council are considering the merits of bringing forward Article 4 directions to manage the amount of small HMOs being developed (i.e. those where 3 to 6 people live separately within the same dwelling house).

Proposals may on exception be considered acceptable where:

- V. Effective measures are proposed to minimise noise and other forms of disturbance to neighbouring residential properties;
- VI. Suitable means of storage including refuse, recycling and bicycle storage is provided;
- VII. The proposal would not harm the character of the building or surrounding area;
- VIII. The proposal would not result in unacceptable impact on parking including unacceptable levels of on-street parking;
- IX. The proposal would not result in the creation of sub-standard living conditions.

5. Article 4 Areas

- 5.1 The Council has 'made' an Article 4 in Lancaster (the wards of Bulk, Castle, John O'Gaunt, Scotforth East, Scotforth West, Skerton East, Skerton West and the village of Galgate) and is considering a further Article 4 in Morecambe to control the proliferation of HMOs. An Article 4 Direction is made by a planning authority under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015. It restricts the scope of permitted development rights either in relation to a particular area or site, or a particular type of development anywhere in an authority's area.
- 5.2 Article 4 directions are used to remove national permitted development rights where it is necessary to protect local amenity or the well-being of an area. An Article 4 does not prevent the development to which it applies, but it instead requires that planning permission is first obtained from the Council for that development.
- 5.3 Permitted development is contained in Schedule 2 of the Town and Country Planning (General Permitted Development Order) (England) (2015) as amended. This is arranged in Classes which set out development which does not require planning permission. The Classes of development restricted by the Article 4 Direction are set out below. The restrictions relate to the conversion of dwellings to HMOs.

Part 3 Changes of Use

Class L – small HMOs to dwelling houses and vice versa

L. Development consisting of a change of use of a building –

(b) from a use falling within Class C3 (dwellinghouses) of Schedule to the Use Classes Order, to a use falling within Class C4 (houses in multiple occupation) of that Schedule.

- 5.4 Consultation took place in February and March 2020 and again in November and December 2020 after the Article 4 was 'made'. Once the responses to the most recent consultation have been received, the Council will consider whether to bring the Article 4 into 'force'. It is at this

point that the restrictions will apply, and planning permission will be required for the conversion of a dwellinghouse to a small HMO. If the Council decides to proceed, the Article 4 is likely to come into force early November 2021.

5.5 Further information can be found on the Lancaster City Council website.

6. When Is Planning Permission Required?

6.1 Planning permission is required for the following:

- The conversion of a dwellinghouse or flat into a large HMO (shared house of more than 6 persons);
- The conversion of a non-domestic building into a HMO, this includes small HMOs (of 3-6 persons who do not form a single household) and large HMOs.
- If the Article 4 is brought into 'force', planning permission will be required for the conversion of a dwellinghouse or flat (Class C3) into a small HMO (Class C4) in the designated area.

6.2 For details with regard to the progress of the Article 4 please see the Lancaster City Council Website.

7. How Will Applications For HMO Use Be Determined

7.1 Paragraph 127 of the National Planning Policy Framework (NPPF) states that planning policies and decisions should ensure that developments, 'will function well and add to the overall quality of the area' and 'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users'.

7.2 In order to do this, policies DM13, DM29 and DM30 provide a criteria which will be used when assessing HMO applications. The Local Plan includes a range of other policies which may be relevant to specific proposals and should be taken into account.

Balance of HMOs within a community

7.3 In accordance with policy DM13, the Council will seek to refuse planning applications for HMO uses where a community is already imbalanced by existing HMO uses or where granting planning permission would create an imbalance..

7.4 A community will be considered imbalanced where:

- More than 10% of residential properties within a 100m radius of the area surrounding the application property are already in HMO use.

7.5 A proposal will be considered to create an imbalance where:

- Granting planning permission would tip the ratio of HMOs to dwellinghouses (Class C3) within a 100m radius of the application property over the 10% threshold.

7.6 Where planning permission is sought to change the use of a small HMO (Class C4) to a large HMO (Sui Generis Use) or to extend a large HMO, the Council will refuse planning permission, in areas where the concentration of HMOs already exceed the 10% threshold.

7.7 The methodology for determining the concentration of HMOs within the 100m radius of an application site is included in Appendix A of this SPD. The information will only be made public by the council on request; in connection with the determination of a current application or appeal and in relation to the 100m radius from the application property. The means of identification of individual HMOs will not be made public.

7.8 Exceptional circumstances may include where the concentration of HMOs within the 100m

radius is such that the retention of remaining buildings will have little effect on the balance and mix of households. In these circumstances it is recognised that some owner occupiers or long-term residents, being in the significant minority, and wanting to leave the street, may struggle to sell their property for continued C3 use. In these instances, the issues outlined at point V. to IX. of policy DM13 will be considered. Evidence of marketing for a period of at least 6 months at a reasonable C3 value, will be also be required to support such applications.

Living conditions

- 7.9 The Council will seek to ensure that new HMOs of all sizes provide a good standard of living and amenity for occupiers. Accommodation must be provided with an appropriate level of outlook and natural daylight.
- 7.10 Residential conversions to HMOs should be easily capable of conversion back into a single dwelling to provide accommodation for a single household.
- 7.11 The accommodation, internal layout, measurements of the HMO and associated access and storage should meet the standards within Appendix B of this SPD. The standards within Appendix B have been carried forward from Appendix D of the former Development Management DPD adopted in 2014 and have been in operation since that date.
- 7.12 Applications should include a full set of floor plans which identify whether rooms are single or double, and the layouts of furniture including sanitary ware.
- 7.13 Proposals should include measures to reduce energy consumption, carbon emissions and water consumption. Measures such as insulation, energy efficient and low carbon appliances and renewable energy technologies such as heat pumps and solar panels are encouraged.

Amenity of neighbours and local occupiers

- 7.14 In accordance with policy DM13, new HMOs must not have a significant detrimental impact on the amenity of nearby residents and the character and appearance of the street scene. Issues which will be taken into consideration include:
- Noise and disturbance;
 - The adequacy and location of refuge, recycling and bicycle storage;
 - The impact on the character of the building and the surrounding area;
 - The impact on car parking and congestion on the surrounding streets;
 - The intensity of the use of the property.
- 7.15 It should be noted that, new HMOs will not be automatically acceptable in locations where they form less than 10% of property types within a 100m radius. The above issues will be used to determine the impact of a new HMO in these locations. Where there is a high localised concentration or where a dwellinghouse would be sandwiched between HMOs, the impact on existing residents is likely adverse and the application refused.

Flood risk

- 7.16 A change of use to a HMO within Flood Zone 2 or 3 may increase the risk to occupants, particularly where the proposals would involve the creation of sleeping accommodation on the ground floor. The Council will seek to ensure that such circumstances do not occur and where necessary mitigation is included within a building to protect occupiers.

8. To Let Boards

- 8.1 Lancaster City has many areas that contain good historic architecture, including large areas of the highest quality which are designated as conservations areas and listed buildings. In some areas, the proliferation of To Let Boards causes significant adverse impacts to the historic character and appearance. The Council has submitted an application to the Secretary of State for Housing, Communities and Local Government for the introduction of a Regulation 7 Direction, under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, to control the proliferation of To Let boards. If approved, an application for advertisement consent will be required for all residential To Let Boards in the wards of Bulk, Castle, John O’Gaunt, Scotforth East and Scotforth West will be required.
- 8.2 Agents are encouraged to minimize the number and timescale that To Let boards are displayed. An agent should not display signs on adjoining properties and they should be removed as soon as the property is let. Agents are encouraged not to display signs during June, July and August when the number of students fall. Agents should also look at ways to minimize the impact of To Let boards by displaying them flat against walls rather than as flag or ‘T’ mounted signs. Displays should be limited to one sign and only located on the front of a property.
- 8.3 Details of the signage currently permitted by the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the penalties for display contrary to these regulations are included in Appendix C.

9. Making A Planning Application

- 9.1 Advice on how to make a planning application can be found on the Councils website or by seeking pre-application advice. Further information can be found using the following link:
<http://www.lancaster.gov.uk/planning>

10. Licensing

- 10.1 Licensing is a separate consenting regime. A license is required for HMOs in Lancaster district for properties that meet all the following criteria:
- Has 5 or more unrelated people living in it
 - Has 2 or more separate households living there
- 10.2 Licensing also applies to blocks of purpose-built flats where there are up to two flats in the block and one or both are occupied as an HMO.
- 10.3 The Lancaster website includes details about the application process, standards and frequently asked questions:
<http://www.lancaster.gov.uk/housing/private-rented-accommodation/houses-in-multiple-occupation-hmo>

Appendix A – Determining The Concentration Of HMOs

The following outlines the methodology for determining the concentration of HMOs within an area.

An area with a radius of 100 metres, from the application site Unique Property Reference Number (UPRN) address point (Basic Land and Property Unit data in the Local Land and Property Gazetteer), will be identified.

Figure 1 - Houses – identifying the 100m radius around the application property

(Figure 1 is indicative and does not identify actual HMOs)



- Application property UPRN
- Identified Area - 100m radius around the property
- 100m radius
- HMO UPRNs

The number of dwellinghouses (Class C3) and HMOs will be determined by:

- Counting the total number of residential UPRNs, in C3, C4 and Large HMOs (Sui Generis) use, within the identified area;
- Determining the number of HMOs in the identified area by checking against the Councils HMO mapping;

HMOs will be mapped by the Council on a yearly basis or more frequently where information is available from Licensing and as a result of planning permissions being granted. This map will be used to determine the properties in HMO use.

The properties in HMO use will be identified by:

- All properties on the Councils HMO register;
- All properties exempt from Council Tax on the basis of student occupation;
- All properties which have extant planning permission for a small HMO (Class C4) or large HMO (Sui Generis HMO) regardless of whether they are in use at the time;
- All properties which have an extant planning permission for a mixed dwelling house (Class C3) and small HMO (Class C4) regardless of whether they are in use at the time.

Calculation

Figure 1 shows that the total number of residential properties in the Identified Area is 372

The HMO mapping shows that there are 45 HMOs within the Identified Area.

The number of HMOs will be calculated as a % of the total number of all properties in the Identified Area:

$$100(\%) / 372(\text{total number of residential properties}) \times 45 (\text{number of HMOs})$$

The % of HMOs in the Identified Area in this case will be **12%**

In the above scenario, the application will be refused in accordance with policy DM13.

The Council acknowledges that it may not have captured all of the HMOs in an area and will therefore continue to review the mapping and seek to capture further knowledge about the way in which properties are being occupied.

Those wishing to confirm the existing lawful use of a property should not rely on the mapping as evidence. The mapping has no legal weight and does not confer that that appropriate permissions and consents are in place. If you wish to establish whether planning permission is in place for the HMO you should submit an application for a Certificate of Lawful Use. Details are available on the Government website:

<https://www.gov.uk/guidance/lawful-development-certificates>

Appendix B – Standards For HMOs

These criteria have been prepared to ensure that appropriate standards are adopted for HMO accommodation. The standards have been carried forward from Appendix D of the former Development Management DPD adopted in 2014 and have been in operation since that date.

Residential conversions to HMOs should be easily capable of conversion back into a single dwelling to provide accommodation for a single household.

The minimum space standards set out below will be applied as appropriate, with some areas excluded from the calculations (e.g. areas with limited headroom under 1.5m from the finished floor level, alcoves etc).

Each unit of accommodation shall normally comprise no more than six bedrooms.

Bedrooms:

Bedrooms must be a minimum of 9sqm without an en-suite, or minimum of 11sqm with an en-suite.

All bedrooms must demonstrate on plan that the following can be accommodated:

- Bed (minimum size 2m by 0.9m);
- Desk and chair;
- Wardrobe;
- Chest of drawers (minimum 0.8m wide); and
- Adequate circulation space.

Bedrooms should accommodate no more than one resident. If the proposal is for accommodation to serve a couple (i.e. postgraduate couple) the minimum space standards for a single bedroom would not apply as additional space would be required.

Such bedrooms must demonstrate on plan that the following can be accommodated:

- Double bed (minimum size of 2m by 1.5m);
- En-suite (minimum 2sqm);
- 2 desks with a chair each;
- 2 Wardrobes;
- 2 Chests of drawers (each with a minimum width of 0.8m);
- Small sitting area for 2 people incorporating 2 'easy' chairs; and
- Adequate circulation space.

Kitchens:

Kitchens and kitchen / diners must not serve more than six residents. A kitchen and dining area must be provided in each unit of accommodation. If the kitchen and dining areas are to be provided in separate rooms, they should be situated on the same floor as each other (i.e. not separated by changes in levels).

All kitchens must demonstrate on plan that the following can be accommodated:

- Sink;
- Cooker with oven, grill, four hobs and extractor;
- Full height fridge/freezer – one for every three residents;
- Two cupboards per resident (minimum 0.6m wide);
- Adequate work surface for the number of residents; and
- Adequate circulation space.

All dining areas must demonstrate on plan that the following can be accommodated:

- Dining table of an adequate size to accommodate all residents at one sitting; and
- Chairs (one per resident).

If a separate living room is to be provided in addition to the kitchen and dining areas, or as part of these areas, then appropriate space standards should be applied (i.e. if separate, it should be demonstrated that appropriate levels of comfortable seating can be provided to accommodate all residents at one time, if combined then the minimum standards set out above should be increased accordingly). Living rooms should be designed to accommodate no more than 6 people to prevent their size becoming unmanageable in terms of attracting anti-social behaviour.

Bathrooms:

Bathrooms must be a minimum of 3.7sqm.

All bathrooms must demonstrate on plan that the following can be accommodated:

- Bath and/or shower;
- WC;
- Wash hand basin (should be of an adequate size for personal hygiene purposes including personal washing, cleaning of teeth and shaving);
- Circulation space to allow for changing; and
- Hanging / temporary storage facilities for towels, clothes and toiletries.

There must be at least one bathroom for every three bedrooms. Where possible, a bathroom should be provided on each floor where a bedroom is proposed /exists. Each bathroom must be accessible from a common area (i.e. corridor or hall) and if served by a window the glazing should be obscured.

Amenity:

All living spaces (kitchens, kitchen/diners, dining rooms, living rooms and bedrooms) must have an adequate level of natural light and adequate outlook (i.e. clear glazed windows with the lowest part of the glazing set at a height no greater than 1.5m from the finished floor level with a separation distance of at least 12m between the window and any wall or structure opposite (or at least 21m if facing windows serving a habitable room).

Therefore it is very unlikely that living spaces within basements or lower ground floors will be supported.

Other Issues:

Cycle Storage

Cycle storage should be easily accessible from the street (i.e. if steps/stairs form part of the access they should be easy to negotiate) and ideally should be an integral part of the building. If no rooms are available within the building that meets these requirements then a secured and fully covered storage facility must be provided within a secured external area within the curtilage of the building without having an adverse impact on the street scene). One cycle space should be provided per resident.

Refuse Storage

Provision must be made for refuse storage containers to be located on an area of external hard standing with suitable access from the internal space and to the street, without having an adverse impact on the street scene (i.e. discreetly screened). Where no external space is available within the building's curtilage the provision should be made within the building, subject to meeting fire and building regulations and again easy access can be provided to the street for refuse collections (i.e. if steps/stairs form part of the access they should be easy to negotiate).

Access and Security

Future residents should feel safe accessing the building and feel safe when residing within it. Therefore access to each self-contained unit should be via a single front door into a common area (i.e. a corridor or hall). All main access points from the street must be secured with appropriate levels of security including lighting, natural surveillance, locks and potentially CCTV.

Nationally Described Space Standards

The 'Standards for Houses In Multiple Occupation' provides guidance on the requirements for amenity, including heating, washing and toilet facilities, kitchens, standards for repair, management and equipment. The standards also include minimum floor spaces for specific rooms. Where a HMO results from the conversion of a building which is not currently a single dwelling or a new build, they will also need to accord with the gross internal floor areas defined in the Nationally Described Space Standards.

Appendix C – Signage with Deemed Consent

Signage with Deemed Consent

Class 3A of The Town and Country Planning (Control of Advertisements) (England) Regulations currently allow:

An advertisement relating to the sale or letting, for residential, agricultural, industrial or commercial use or for development for such use, of the land or premises on which it is displayed. Subject to the following limitations:

- (1) Not more than one advertisement, consisting of a single board or two joined boards, is permitted; and where more than one advertisement is displayed, the first to be displayed shall be taken to be the one permitted.
- (2) No advertisement may be displayed indicating that land or premises have been sold or let, other than by the addition to an existing advertisement of a statement that a sale or letting has been agreed, or that the land or premises have been sold or let, subject to contract.
- (3) The advertisement shall be removed within 14 days after the completion of a sale or the grant of a tenancy.
- (4) No advertisement may exceed in area— (a) where the advertisement relates to residential use or development, 0.5 square metre or, in the case of two joined boards, 0.6 square metre in aggregate; (b) where the advertisement relates to any other use or development, 2 square metres or, in the case of two joined boards, 2.3 square metres in aggregate.
- (5) Where the advertisement is displayed on a building, the maximum projection permitted from the face of the building is 1 metre.
- (6) Illumination is not permitted.
- (7) No character or symbol on the advertisement may be more than 0.75 metre in height, or 0.3 metre in an area of special control.
- (8) No part of the advertisement may be higher above ground level than 4.6 metres, or 3.6 metres in an area of special control or, in the case of a sale or letting of part only of a building, the lowest level of that part of the building on which display is reasonably practicable.

Penalties for the display of signs without the necessary consent

Anyone who displays an advertisement in contravention of the Regulations commits an offence. For example, by displaying an advert without the necessary consent or without complying with the conditions attached to that consent. It is then immediately open to the local planning authority to bring a prosecution in the Magistrates' Court for an offence under section 224 of the Town and Country Planning Act 1990. The penalty on conviction for the offence is at level 4 on the standard scale (current maximum £2,500) and in the case of a continuing offence a further daily fine of up to a maximum of one tenth of that amount (£250) until the contravention ends.

Where a local planning authority achieves a successful conviction for failure to comply with an enforcement notice, they can apply for a Confiscation Order, under the Proceeds of Crime Act 2002, to recover the financial benefit obtained through unauthorised development.

Local planning authorities also have powers to remove any advertisement (and any structure used for its display) which in their view is displayed in contravention of the Regulations.

Appendix D - Monitoring

The HMO data base and mapping will be updated yearly using Council Tax exemption data and more regularly when planning permission for new HMOs is granted.