**Houses in Multiple Occupation**

**Draft Brent Local Plan Policy BH7 Note**

**January 2021**

**Private sector rented dwelling stock in Brent**

* 1. In 2019 there were estimated to be 120,448 dwellings in Brent[[1]](#footnote-1). Within the 2011 Census, 31.5% of dwellings were identified as private sector rented. This has increased from 17% in 2001 and was associated with increased flexibility within the sector through changes in regulations and increased availability of finance for ‘buy to let’ landlords. At a UK level, there has been a similar percentage rise in the period 2009 to 2019 to 19%[[2]](#footnote-2) albeit from a lower base, this indicates continued growth of the sector post 2011. A similar increase from 2011 to today would mean around 43% of properties in Brent are private sector rented. Until the 2021 census results are made available, the percentage is likely to remain unknown.
	2. The Council now has selective licensing for some private sector rented properties across the borough and additional licensing for all HMOs across the borough. Whilst the number of properties that are licensed has been increasing, for HMOs, it is estimated that currently only around 15% have the licence. There is therefore no definitive list of what properties are private sector rented and which of those are HMOs.

**Houses in Multiple Occupation**

* 1. The Council commissioned work in order to support its consideration of the need for licensing of private sector housing in 2016. A report by Matthew Harper Associates[[3]](#footnote-3) estimated that of the private sector rented properties in the borough, 56.4% were rented to sharers (houses in multiple occupation), compared to 43.6% to single families.
	2. It is therefore evident that currently houses in multiple occupation (HMO) play an important part in providing accommodation for Brent residents. The high cost of housing, together with changes to benefits entitlements, particularly for the under 35s means that this role is unlikely to diminish.

**Planning permission and HMOs.**

* 1. Currently many small scale HMOs, that is dwellings with between 3 and 6 people from two or more households for whom the property is their primary dwelling, do not need planning permission to be used for such purposes. They can be switched between a dwelling house and HMO and back through permitted development rights. Those with over 6 occupants from two or more households do currently require planning permission.

**Article 4 Direction**

* 1. The Council has indicated that it will take forward an Article 4 direction. This gives it the power to require planning permission to be obtained for changes of use to HMOs that would otherwise currently benefit from permitted development rights. It did this on the basis of seeking to reduce over-concentration in certain areas which was identified as having an adverse impact on maintaining balanced and mixed communities. It was also aimed at improving the quality of HMOs, particularly in terms of seeking sufficient internal amenity space, something which housing licensing has a relatively limited remit to address. For example it does not require an amenity space in a dwelling, but does apply a minimum size standard where one is provided. As most landlords seek to maximise rental income, most HMOs living and dining rooms are re-purposed as bedrooms. This leaves only communal kitchens (of a limited size) for occupants as internal amenity space outside their bedrooms. It results in what if they were assessed as normal homes would be over-crowded properties, increasing pressure on local infrastructure.
	2. The Council initiated the process in 2019 for a borough wide Article 4 direction. On the basis of representations received however it has not confirmed the borough wide Article 4. It is likely to start the process again in 2021 to take a more targeted approach which excludes Growth Areas particularly where there is a prevalence of ‘Build to Rent’ developments.

**Draft Local Plan Policy BH7**

* 1. To support the aim of the Article 4 in addressing some of the potential adverse issues associated with HMOs, the Council is proposing to take forward a policy in its draft Local Plan. This addresses a number of factors which it expects shared residential accommodation or supported residential accommodation to address. For HMOs it has a specific measurable definition of for limiting potential concentrations where planning permission is required for HMOs, as well as being a mechanism for ensuring that the quality of accommodation is appropriate in terms of the needs of its occupants. The issue of standards of accommodation will be addressed in a Supplementary Planning Document once the Plan is adopted and Article 4 direction confirmed.

**Policies limiting HMOs elsewhere**

* 1. In terms of determining what percentage of properties in an area is regarded as an appropriate amount it has considered a number of factors. The first is that as a proportion of the dwelling stock overall across the borough, it is estimated that HMOs currently represent somewhere between 18-24% of the total. There are examples of many Councils who have introduced policies to limit the number of HMOs in areas. These typically use a 20% threshold, although this seems to be more on the basis of precedence of approach of others than a more detailed assessment of what is an appropriate threshold. Most of these areas are those with Higher Education facilities with an extensive student population that are focussed on preventing concentrations of student properties. These concentrations impact on existing communities in terms of increased anti-social behaviour concentrated in short periods throughout term time which makes it unattractive for families in particular to remain in the area. In addition, large scale vacancy of premises outside term time affects viability of social infrastructure at some times, e.g. local shops, whilst occupation in term time increases pressure on certain facilities, e.g. health facilities.

**Brent specific approach**

* 1. In Brent, HMO issues related specifically to significant concentrations of students have not been identified. Therefore the issues are not so cyclical and concentrated into short periods as they are with student accommodation. HMO properties are generally occupied by a range of age groups, although more likely to be younger than the population as a whole and by people who are typically working, single or sometimes couples. The Harper Associates report did however identify some correlations between issues such as over-crowding and population churn and anti-social behaviour including housing disrepair and noise complaints associated with what it estimated were the high prevalence of HMOs in particular areas. These issues were however also typically associated with concentrations of private sector rentals.
	2. Government recognises that poor quality rented accommodation can result in a number of problems for tenants and neighbourhoods. It allows Councils to introduce selective licensing of private sector rented accommodation to improve quality and assist in reducing these problems. Councils can apply selective licensing of up to 20% of private sector rented properties in their area with a focus on areas with problems of anti-social behaviour and other quality issues. They need additional permission from the Secretary of State if they wish to apply the licensing system to a greater number of private sector rented properties. Many of the indicators of adverse impacts are only collected at a ward level, rather than property level, meaning the assessment has been done on the basis of wards.
	3. In Brent, 20% of private sector rented dwellings within the wards ranked with the highest scores when considered against a basket of measures of adverse amenity impacts such as anti-social behaviour and property condition includes: Willesden Green 44.9% (percentage of accommodation that is private sector rent in the ward - 2011 Census), Harlesden 32.4%, Kilburn 29.8%, Mapesbury 45.7%, Kensal Green 36%, Wembley Central 35% and Queens Park 35%. Overall within these wards, the average proportion of private sector rented stock is 36.8%. Within those areas there are likely to be areas with higher concentrations and those with less. Overall however, this gives an indication of on average the proportion of private sector rented properties that cause higher levels of amenity issues that the Government feels it is appropriate for Councils to address.
	4. Given the role that HMOs have in meeting housing needs and Brent’s housing pressures the Council does not want to stop dwellings becoming HMOs without good reason. It does however want to ensure that areas have relatively balanced and mixed communities, as in the longer term these provide the most sustainable places.

**Concentration in Brent Policy and Interpretation**

* 1. HMOs due to the demographic of their occupants (primarily single people and couples without children) are more likely to focus in areas that are consistent with that market sector’s priorities. That is properties in close proximity to public transport and local facilities. The higher yields to landlords from these types of properties will mean rented accommodation for similar sized properties for single households (who are also likely to have children/ different priority focus) is unlikely to be provided unless limitations exist that encourage this.
	2. In terms of what is an appropriate concentration, the Council considers that anything above the average of 36.8% found in the highest anti-social issues ranked wards is likely to be an indicator of likely more significant problems of anti-social behaviour/housing conditions being likely to arise. When applied at a more local level this equates to roughly 4 out of 11 residential properties. In terms of applying the HMO concentration assessment, for consideration within a policy, analysis of the nearest 10 properties to a proposed HMO is regarded as a reasonable size of area to consider.
	3. It balances considerations of impacts on an area with the administrative process of identifying what might be a HMO property close by for both the applicant and Council, which as many HMOs currently are not licensed could be time consuming to ascertain.
	4. Policy BH7 in the draft Local Plan submitted for examination focussed on 5 dwellings either side of an application site when assessing those properties nearest. Discussion at the Examination Hearings raised some issues about the appropriateness and how it would work, for example it did not consider dwellings on the opposite side of the road which might be in close proximity or the amount of concentration of HMOs over a wider area.
	5. Following internal discussion it is now proposed that the assessment focuses on the ten nearest properties. Proximity is taken as those nearest to the front entrance of the application property (rather than for instance those that might be joined along a rear boundary). This better takes account of more immediate likely impact on the adjacent occupiers of the street or those streets close if the property is near to an intersection of streets. If the application site is within a block of flats, then assessment is initially of those on the same floor accessed via a shared corridor and then adjacent floors.

**Should the area of consideration of concentration be extended wider?**

* 1. Through this approach it is recognised that outside the area being looked at in more detail there might already be a concentration of properties in HMO use in close proximity, whilst within the area being looked at additional HMOs might be allowed. Notwithstanding this issue, it is currently the case that there are no restrictions on the majority of HMOs as a result of permitted development rights. The additional protection provided by the policy is reliant on an Article 4 being in place. The decision to pursue the Article 4 direction to remove these rights was finely balanced within the Council, taking account of inputs from the housing and planning services and also councillors. Whilst housing were supportive of the role that requiring planning permission could bring in terms of improving quality of homes and reducing potential for adverse impacts on neighbourhoods, there was also concern about potential for restricting provision of accommodation that could meet recognised needs and in particular its impact on limiting options for housing people who come to the Council for help and might otherwise end up being placed in temporary accommodation.
	2. In addition, introducing an Article 4 direction will result in a cost to the council in terms of administrative functions as it will not be able to recoup its administrative costs from application fees attained. As such, the decision was made to make the assessment process of appropriate concentration as simple as it could be. Widening the area to consider will make this assessment more time consuming. As has been noted, despite the Council having an additional licensing regime for HMOs, registration to date is still low. This is likely to mean consideration of alternative information sources, or having to visit properties to identify existing HMOs. The Council regards the 10 nearest properties as a reasonable test. In a suburban street context of dwellings in northern Brent this would typically cover all the nearest properties within the same street within 30 metres of the entrance of a property. Outside this distance many of the aspects of anti-social behaviour impacting on neighbours directly would be greatly diminished and difficult to substantiate in terms of significant harm compared to the property’s occupation by a large extended family, which are prevalent in Brent.

**Conclusion**

* 1. The Council is seeking to balance the need to provide for additional HMOs to meet housing needs, whilst protecting the amenity of adjacent residential areas with a view to sustaining balanced and mixed communities. Requiring planning permission through removing permitted development rights will also allow the Council to better control the quality of accommodation in addition to the powers that exist through its additional licensing requirements, which will have benefits for tenants and neighbours.
	2. Following consideration of the policy following the examination hearings, the Council feels that a limit within an area for the consideration of whether there is an ‘over concentration’ being set at around 36% is justifiable as this level of concentration is associated with the top 20% of areas with adverse impacts of concentration. To support a proportionate consideration of impacts of proposals for additional HMOs on occupants in residential areas, it considers that an assessment of the prevalence of HMOs in the existing ten nearest properties is appropriate. In recognition of the limitations of the BH7 policy approach in the Plan initially submitted for examination it is proposing a modification to criterion e) of the policy to:

“will not lead to an over-concentration of the type of accommodation in the area. For Houses in Multiple Occupation an over-concentration ~~this is defined as~~ is where ~~no more than 4 of 11 adjacent~~ three or more of the ten nearest properties are Houses in Multiple Occupation.”

with the supporting text changed to:

“…HMOs must meet the standards of Brent’s HMO licensing scheme, including minimum room sizes. These sizes have been developed in accordance with the Housing Act 2004. To reduce the potential for over-concentration the policy adopts a simple approach of seeking to allow no more ~~than 4 of any 11 adjacent 3 of~~ properties being HMOs where three already exist in the ten nearest properties to the application property. This is measured taking the nearest front entrances when walking from the front door of the application property (so this is likely to exclude properties that share a rear garden boundary with the application property for instance). Each individual flat is regarded as one property for the purposes of this calculation. Where the application property is a flat, flats on the same floor are counted first within the ten.”

1. [MHCLG Live Table 100](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/887050/LT_100v2.xls) [↑](#footnote-ref-1)
2. [Family Resources Survey 2018/19 Tenure DWP March 2020](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/874520/frs-tenure-data-tables-2018-19.xlsx) [↑](#footnote-ref-2)
3. ‘The case for extending selective licensing in Brent’ December 2016 Matthew Harper Associates [↑](#footnote-ref-3)