

## **Cabinet**

**15 July 2015**



### **Consideration of an Article 4 Direction covering change of Use Class C3 to Use Class C4 for Durham City and the introduction of an Interim Policy on Student Accommodation**

**Key Decision R&ED/06/15**

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**Report of Corporate Management Team  
Ian Thompson, Corporate Director Regeneration and Economic Development  
Councillor Neil Foster, Cabinet Portfolio Holder for Economic Regeneration**

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#### **Introduction**

1. The purpose of this report is to consider the issues associated with student accommodation in County Durham. In this regard, this report seeks the authorisation to:
  - A. Make an Article 4 Direction to remove permitted development rights under planning legislation for changes of use from dwelling houses (Class C3) to small Houses in Multiple Occupation (HMOs) (Class C4) in parts of Durham City, and
  - B. Introduce an Interim Policy on Student Accommodation to consider applications for both Houses in Multiple Occupation (HMOs) and Purpose Built Student Accommodation (PBSA).

#### **Background**

2. The Council recognises the importance of Durham University to the County on a number of fronts, including its reputation as a world class university, research function, academic excellence and the benefits that it brings to the economy of the County and Durham City. At the same time, the scale of the student numbers in the City does create tensions with the local community.
3. It is acknowledged that there can be an impact on the amenity of residents in areas where student HMOs are dominant. The use of an Article 4 Direction would enable the Council to assess the acceptability of a proposal for an HMO, balancing the contribution that such a conversion will make to meeting housing demand against the potential harm that might be caused to the character and amenity of the surrounding area.

4. In the last two years Durham City has experienced, and continues to experience, an increase in the number of proposals for PBSA. This is a new phenomenon in the City as traditionally University Halls of Residence and HMOs have been the source of accommodation. The PBSA pipeline is set out at Appendix 2 of this report.

## **A. ARTICLE 4 DIRECTION**

### **Context**

5. In October 2010 the Government made changes to planning rules which allows family homes (Class C3) to change to a small HMO with up to six people (Class C4) without the need for a planning application i.e. 'permitted development'. However, where local authorities consider that there is a local need to control the spread of HMOs in specific areas they can use existing powers to remove this form of permitted development and thereby require the submission of a planning application for such a change between a family dwelling house (Use Class C3) and small HMO (Use Class C4). This is undertaken through an Article 4 Direction.
6. An Article 4 Direction cannot apply retrospectively. It would have no effect on the existing HMOs and would not require existing landlords of HMOs to do anything. It cannot apply to any development that has been commenced at the time that a Direction comes into force. It would also not be applicable to Purpose Built Student Accommodation.
7. HMOs can provide accommodation for a wide range of groups including professionals, students, migrants, and people on low incomes. In County Durham the majority of HMOs are located in Durham City and are occupied by students of Durham University. In broad terms, a House in Multiple Occupation (HMO) under planning legislation is defined as a house or flat occupied by a certain number of unrelated individuals who share basic amenities and is classified by the Uses Classes Order as:
  - Class C4 (between 3 and 6 residents); and
  - Sui Generis (more than 6 residents).
8. An Article 4 Direction is a statement made under the Town and Country Planning (General Permitted Development) Order 1995. There is a legal form of words for the direction and there would be a need to define the area covered by the direction by reference to a map. The effect would be to remove permitted development rights in relation to the change of use C3 (dwelling) to C4 (HMO) within the defined area.
9. An Article 4 Direction can be implemented as an 'immediate' Direction or a 'non immediate' Direction. It is proposed that a 'non immediate' Article 4 Direction is made, as this overcomes liability for compensation. Once the 'non immediate' Article 4 Direction has been authorised by Cabinet, the Direction can be made by Legal and Democratic Services, it will come into force 12 months from this point (see Appendix 6). A review of comparable

Article 4 directions indicates that the vast majority of these were 'non immediate' directions (Appendix 7).

### **Local Plan Policy Context**

10. The relevant saved policies that are used to determine applications for student accommodation for the former District and Borough Councils are applicable where they are not in conflict with the National Planning Policy Framework. Policy H9 of the City of Durham Local Plan (2004) is set out at Appendix 3.
11. The Interim Policy as proposed in Part B of this report would support the assessment of proposals for HMOs (see Appendix 5).

### **Evidence**

12. Government guidance<sup>1</sup> states that when deciding whether an Article 4 Direction is appropriate, local planning authorities should identify the potential harm which it is intended to address. Specifically in relation to shared housing, planning authorities can consider whether the exercise of permitted development rights would undermine local objectives to create or maintain mixed communities.
13. An Article 4 Direction should not be introduced without evidence, a paper setting out the evidence has been prepared separately and is submitted with this report as Appendix 8 It is suggested that the evidence base in support of the introduction of an Article 4 Direction is finely balanced. Consideration has been given to:
  - Evidence across a range of specific issues (including crime, antisocial behaviour, noise and nuisance, appearance of properties, waste, parking and impact upon community facilities);
  - The existing concentrations of properties carrying student exemptions from Council Tax by postcode area, and therefore that the Article 4 Direction has the potential to support sustainable inclusive and mixed communities; and
  - The representations made at the County Durham Plan Examination in Public. Including the suggestion in the Inspector's Interim Report that the absence of an Article 4 Direction represented an '*escape clause*'.

### **The area of the Article 4 Direction**

14. It is proposed that the area to be covered by an Article 4 Direction would cover the parts of Durham City considered to be potentially desirable to students, taking into account the availability of facilities and distance from

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<sup>1</sup> Department for Communities and Local Government Replacement Appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 95, paragraph 2.2 June 2012 DCLG

the University. It is these areas where it is considered that the concentrations of HMOs may affect the wellbeing of the area. The proposed area to be subject to the Article 4 Direction is set out at Appendix 4.

## **PART B. INTERIM POLICY ON STUDENT ACCOMMODATION**

### **Context**

15. The *Assessing Development Proposals* report was presented to Cabinet on the 10<sup>th</sup> June 2015. This report noted that it was an appropriate time to revisit the Council's Policy approach to student accommodation. The justification for this approach is as follows:
  - As part of the discussions at the Examination in Public the Council submitted a proposed Main Examination Hearing Change to the County Durham Plan in respect of HMOs and PBSA. However, the original policy and the proposed modification were explicitly found to be unsound within the Interim Report;
  - In light of objections to the Council's approach, the Inspector's Interim Report recommended a policy for considering applications for student accommodation; and
  - The Council is continuing to receive applications for PBSA. In this regard, Durham City remains an attractive market for such proposals.

### **The Interim Policy on Student Accommodation**

16. In the Inspector's Interim Report on the County Durham Plan, both the original version of Policy 32 and the Council's proposed Main Modification developed through the Examination in Public were explicitly found to be unsound by the Inspector's Interim Report. On this basis it is considered that no weight can be given to County Durham Plan Policy 32 in decision making.
17. The Interim Policy has been developed from the guidance contained within the Inspector's Interim Report. At paragraph 104 it is stated: '*The responses by [Friends of the Durham Green Belt] FDGB and [Sidegate Residents Association] SRA incorporated in [Document reference] DCC49 demonstrate how Policy 32 could be amended.*' The Interim Policy as proposed has been developed from this document and is set out at Appendix 5. For purposes of comparison, Appendix 7 provides an overview of other Local Authorities policy approaches to PBSA.

### **The use of the Interim Policy in Decision making**

18. The City of Durham Local Plan (2004) Saved Policies remain the starting point for decision making. A schedule of relevant Local Plan Policies is set out at Appendix 3. In addition, the NPPF contains a presumption in favour

of sustainable development in that planning authorities should grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of NPPF. The NPPF is an important material consideration. The Interim Policy would hold less weight than the Local Plan Saved Policies which have been through the full plan making process (i.e. subject to Examination in Public).

### **Process and Timetables**

19. The process and timetable for the making of an Article 4 Direction and the introduction of the Interim Policy are set out at Appendix 6.

### **Recommendations**

20. Members are recommended to:
  - A. Agree the making of an Article 4 Direction under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) to remove permitted development rights in relation to changes of use from Use Class C3 to Use Class C4 (as defined in the Town and Country Planning [Use Classes] Order 1987, as amended). Twelve months advance notice of the Direction taking effect shall be given and representations will be invited for a period of 28 days according to the timetable set out in Appendix 7. The Direction shall apply to the area shown on the map at Appendix 4; and
  - B. Agree an Interim Policy on Student Accommodation as set out at Appendix 5 of this report for public consultation.
  - C. Agree that any minor modifications to the Article 4 Direction and the Interim Policy after consultation, can be agreed by the Director of Regeneration and Economic Development in consultation with the Portfolio Holder for Regeneration and Economic Development and that any significant modifications would be brought back to Cabinet for further consideration.

### **Background Papers**

Evidence Paper: Houses in Multiple Occupation – Article 4 Direction, Regulation 7 Direction, Additional Licencing. (June 2015)

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**Contact: Mike Allum Tel: 03000 261906**

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## **Appendix 1: Implications**

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### **Finance –**

Any planning application required as a consequence of an Article 4 Direction is exempt from the usual planning application fee, on the basis that it would have otherwise been permitted development. However the Council would still incur costs in processing the applications.

There will also be costs involved in the making of the Direction particularly in relation to the local notification procedure. Notice of an Article 4 Direction must be published in a newspaper, by site display and individually on every owner and occupier of every part of the land within the area or site to which the direction relates (unless it is impracticable because it is difficult to identify or locate them, or the number of owners or occupiers within the area to which the direction relates would make individual service impracticable. This exemption from individual service of notice does not apply, however, when the owner/ occupier is a statutory undertaker or the Crown). The Council may also be liable to pay compensation to those whose permitted development rights are withdrawn. Compensation is not payable if 12 months prior notice of the withdrawal of permitted development rights is given i.e. a non-immediate Article 4 Direction.

### **Staffing –**

Administration of the scheme will be done within existing staffing levels. It is not known how many applications may be submitted but as there are no fees costs of staffing cannot be offset. The use of a 100m threshold for the assessment of HMOs will require the development of a bespoke data set for each application.

### **Risk –**

The Interim Policy has been developed on the basis of a recommendation from the Inspector at the Examination in Public on the County Durham Plan. This recommendation was contrary to the Council's stated position. If the Interim Policy is included in a future version of the County Durham Plan then a different Inspector at a future Examination may consider it to be unsound.

### **Equality and Diversity / Public Sector Equality Duty –**

Equality and diversity has been considered but this proposal is not expected to impact either positively or negatively on any particular group.

### **Accommodation –**

None

### **Crime and Disorder –**

None

### **Human Rights –**

None

### **Consultation –**

Consultation will be required on both the proposed Article 4 Direction and the Interim Policy.

**Procurement –**

None

**Disability Issues –**

None

**Legal Implications –**

Legal opinion and advice has been sought from the Council's in-house legal team. This has informed the development of this report. Should Cabinet endorse the recommendation, then Legal will make the Article 4 Direction.

## Appendix 2: Purpose Built Student Accommodation Pipeline (8 June 2015)

Planning Stage	Site	No. of beds
<b>Current applications</b>	18-29 Claypath	445
	Sunlight (Berendsen Laundry)	277
	Land to the Rear 21 Market Place	56
	Kepier Court	214
	The Gates Framwellgate Bridge	253
Total		1245
<b>Extant permission: Private sector led, independent of an institution</b>	Rennys Lane	350
	Sheraton Park	418
	Neville's Cross Club	36
	Durham Light Infantryman	109
	78-78A Claypath	9
Total		922
<b>Extant permission: University Schemes</b>	Mount Oswald	1000
Total		1000
<b>Implemented permissions</b>	Aynsley Street	223
	Magdalene Heights	198
Total		421
<b>Completed schemes</b>	Green Lane	112
	Three Tuns	50
Total		162
<b>Refused Applications (within potential appeal timeframe)</b>	County Hospital	363
	Total	
<b>Grand total in pipeline/committed</b>		4113

**Appendix 3: Schedule of City of Durham Local Plan (2004) relevant saved policies.**

**Policy H9: Multiple Occupation /. Student Households**

The sub-division or conversion of houses for flats, bedsits or for multiple occupation, or proposals to extend or alter properties already in such use will be permitted provided that:

1. Adequate parking (in accordance with policy T10), privacy and amenity areas are provided or are already in existence; and
2. It will not adversely affect the amenities of nearby residents; and
3. It is in scale and character with its surroundings and with any neighbouring residential property; and
4. It will not result in concentrations of sub-divided dwellings to the detriment of the range and variety of the local housing stock; and
5. It will not involve significant extensions having regard to policy Q9, alterations or rebuilding which would unacceptably alter the character or scale of the original building.

**Policy H16: Residential Institutions and Student Halls of Residence**

New, or proposals for extensions to existing hostels, residential institutions and care homes will be permitted within settlement boundaries provided that:

1. They are well related to shops, community and social facilities, and to public transport; and
2. Both the location and the form of the development itself provide satisfactory standards of amenity and open space for the residents; and
3. They do not detract from the character or the appearance of the surroundings or from the amenities of existing residents; and
4. In the case of student halls of residence they accord with policy C3 or the proposal would not lead to a concentration of student accommodation such that it would adversely detract from the amenities of existing residents

Examples of other relevant policies are listed below. It is not an exclusive list. There may be other appropriate policies depending on the nature of an individual application

**Historic Environment and Conservation Area**

- World Heritage Site – Protection (E3) – seeks to protect the setting of the WHS.
- Durham City Centre Conservation Area (E6) – addresses design and scale of development issues.
- Historic Environment (E21) – addresses possible adverse impact of proposals on features of historic interest.
- Conservation Areas (E22) – seeking to avoid development or demolition that detracts from the conservation area.
- Listed Buildings (E23) – seeks to safeguard listed buildings and their settings.

**Transport**

- **Parking (T10) – provides control over parking off the public highway**

**City Centre Policies**

- **Vitality and Viability (CC1) – seeks to protect and enhance the vitality and viability of the city centre**

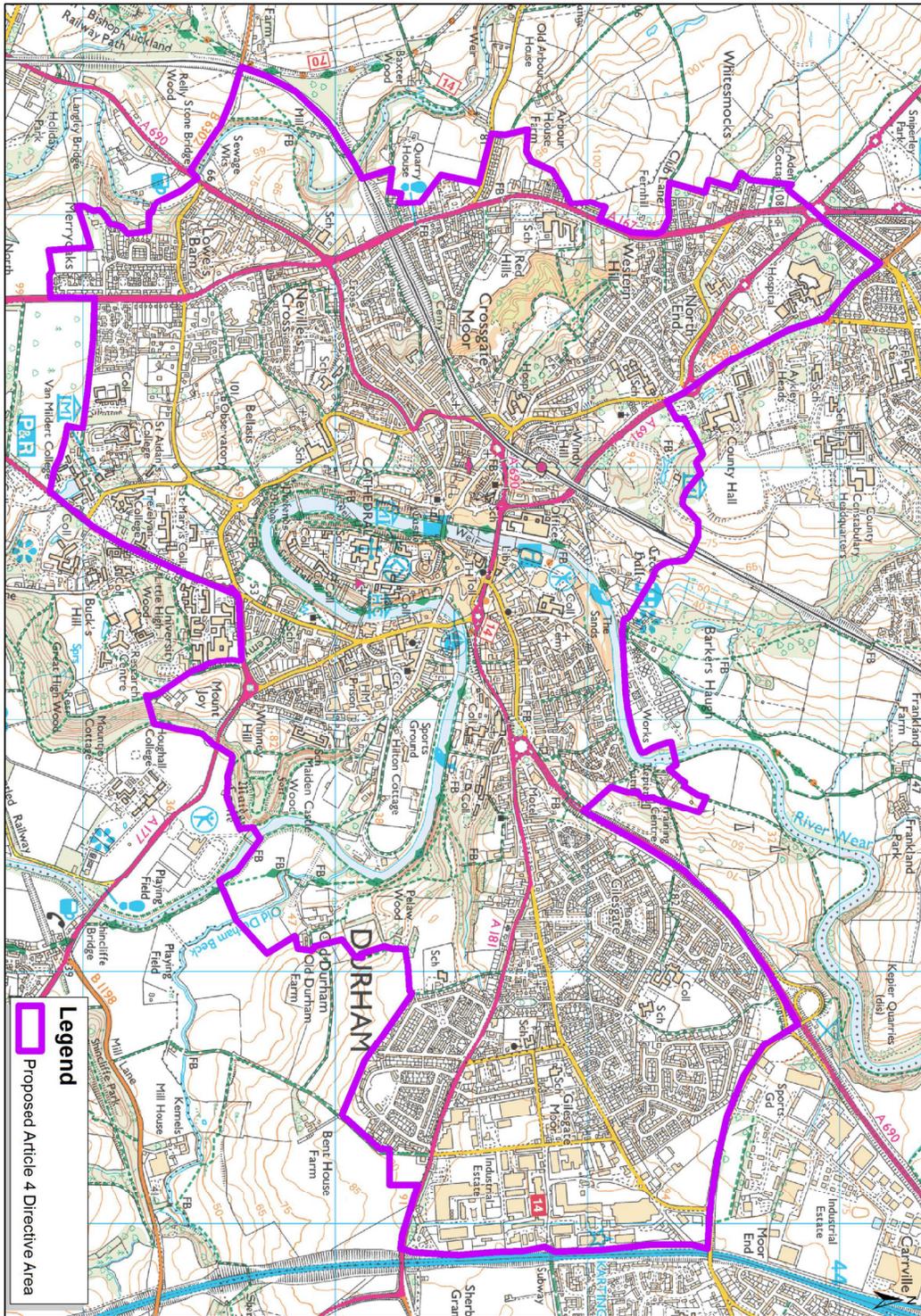
**Landscape**

- **Existing Trees and Hedgerows (E14) – considers proposals affecting trees and hedgerows**
- **Landscaping - General Provision (Q5) – considers development which has an impact on the visual amenity**

**Amenity**

- **The Character of Residential Areas (H13) – controls new development that could have significant adverse effect in residential areas.**

# Appendix 4: Map of proposed Article 4 Direction area



## **Appendix 5: Proposed Interim Policy**

### **Houses in Multiple Occupation, Student Accommodation and Purpose Built Student Accommodation**

#### **PART A: HMOs**

**In order to promote mixed, sustainable and balanced communities and maintain an appropriate housing mix, applications for new build Houses in Multiple Occupation (both C4 and sui generis) and changes of use from any use to:**

- **a Class C4 (House in Multiple Occupation), where planning permission is required; or**
- **a House in Multiple Occupation in a sui generis use (more than six people sharing)**

**will not be permitted if more than 10% of the total number of properties within 100 metres of the application site are already in use as licensed HMOs or student accommodation exempt from council tax charges.**

**In all cases proposals will only be permitted where:**

- a) the quantity of cycle and car parking provided is in line with relevant saved policies from the City of Durham Local Plan , the Council's Parking and Accessibility Guidelines and the relevant institution's restrictions on students' cars;**
- b) they provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues in line with relevant saved policies from the City of Durham Local Plan; and**
- c) The design of the building or any extension would be appropriate in terms of the property itself and the character of the area in accordance with relevant saved polices of the City of Durham Local Plan.**

**However, such changes would not be resisted in the following circumstances:**

- d) Where an area already has such a high concentration of HMOs that the conversion of remaining C3 dwellings will not cause further detrimental harm; or**
- e) Where the remaining C3 dwellings would be unappealing and effectively unsuitable for family occupation.**

**Changes of use from an HMO to C3 will be supported, including policies and initiatives outside of the Plan that can bring funding and other measures to assist the re-balancing of neighbourhoods.**

## **PART B: PURPOSE BUILT STUDENT ACCOMMODATION**

When considering proposals for new, extensions to, or conversions to, Purpose Built Student Accommodation (PBSA) the Council will consult with key stakeholders in accordance with Appendix A of the Statement of Community Involvement.

Any proposal will be required to demonstrate:

- a) that there is a need for additional student accommodation.  
Developers should demonstrate what specific need the proposal is aimed at and why this need is currently unmet;
- b) It would not result in a negative impact on retail, employment, leisure, tourism or housing use or would support the Council's regeneration objectives ; and
- c) partnership working with the relevant education provider.

Proposals for new development will not be permitted unless:

- 1) The development is in close proximity to an existing university or college academic site, or hospital and research site;
- 2) The design and layout of the student accommodation and siting of individual uses within the overall development are appropriate to its location in relation to adjacent neighbouring uses. The aim is to ensure that there is no unacceptable effect on residential amenity in the surrounding area through increased noise, disturbance or impact on the street-scene either from the proposed development itself or when combined with existing accommodation;
- 3) The internal design, layout and standard of accommodation and facilities is of a high specification;
- 4) The impacts from occupants of the development will not have an unacceptable impact upon the amenity of surrounding residents in itself or when considered alongside existing and approved student housing provision. A management plan appropriate to the scale of the development shall be provided. Implementation of the management plan will be controlled through the use of planning conditions or an appropriate legal agreement;
- 5) The quantity of cycle and car parking provided is in line with relevant saved policies of the City of Durham Local Plan, the Council's Parking and Accessibility Guidelines and the relevant institution's restrictions on students' cars; and
- 6) It has been demonstrated to the local planning authority that the proposals are deliverable. To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that PBSA will be delivered on the site within five years. Sites with planning permission will be considered deliverable until permission expires.

**Where appropriate, proposals in accordance with the above requirements should contribute to the re-use of listed buildings, heritage assets and other buildings with a particular heritage value.**

## **Background**

- 1 Durham University is a major asset to the City, shaping the built environment, contributing to the cultural offer, developing highly skilled individuals as well being a major employer and a purchaser of local goods and services. The University also facilitates business and industrial research. The University also facilitates business and industrial research. The University has recently begun a major new strategic programme of development including a £60M investment in the new Palatine Centre; relocation of some departments and support services; and the disposal or refurbishment of some existing properties. The aim is to rationalise the estate and to provide opportunities to dispose of or significantly improve inefficient buildings whilst ensuring it makes maximum use of its retained buildings and of its land holdings.
- 2 The University set out in the Residential Accommodation Strategy (2012), its ambition to increase student numbers in the City from 13,500 to 15,300 by 2020 (a 13% increase over 6 years) but it also intends to increase the percentage residing in purpose built student accommodation (controlled by the University) from 43% to 50% and has an aspiration eventually to achieve 70%. These figures were revised in early 2015 as part of an annual planning process. The number of students based in Durham (as opposed to Queen's Campus, Stockton), in 2014/15 was 13,482 projected to rise to 13,841 in 2019/20. As part of this process it was noted that of the 13,482 students in 2014/15, 6,392 were accommodated by the University leaving 7,090 to be housed elsewhere. The Council's Council Tax data, relating to the academic year 2013/14, indicates that there were approximately 6,300 students living in student exempt properties within the DH1 postcode area. The Council Tax data identifies properties where the only occupants are students. Whilst this data reflects different reporting periods, it suggests that some students are living outside of University accommodation or HMOs. It may be that these students are living at home, in mixed households (student and non-student) or outside the DH1 postcode area.
- 3 The student housing market is not static - there needs to be upgrading of some existing provision; there needs to be choice in the market; and there is a pressing need for some of the areas of the City that are now virtually saturated with student HMOs to be relieved and regenerated. Policies 32(A) and 32(B) for HMOs and for PBSAs respectively will help to realize all these needs.
- 4 Wherever possible the increase in student numbers should be accommodated in purpose built student accommodation designed and managed in a way that meets the needs of students on-site which will attract student take-up. When considering proposals for new, extensions

to, or conversions to, Purpose Built Student Accommodation (PBSA), the Council will consult with key stakeholders in accordance with Appendix A of the Statement of Community Involvement.

- 5 East Durham and Houghall Community College, New College Durham, The University Hospital of North Durham, St John's College and St Chad's College are other further education establishments in Durham City; and there are also Colleges of Further/Higher Education in Bishop Auckland, Consett and Peterlee within County Durham, and in Darlington and other major towns around the County's borders. Future expansions of these establishments may impact on the requirement for student accommodation and the situation should be kept under review. At the present time, however, the predominant issue of HMOs and PBSA is in Durham City and these strategic policies are directed there.

### **HMOs**

- 6 In broad terms, a House in Multiple Occupation (HMO) under planning legislation is defined as a house or flat occupied by a certain number of unrelated individuals who share basic amenities and is classified by the Uses Classes Order as Class C4 (between 3 and 6 residents); and Sui Generis (more than 6 residents). Planning permission is not required for changes of use from Class C3(residential) to Class C4(HMO) unless an Article 4 Direction has been made for a particular locality. HMOs can provide accommodation for a wide range of groups including professionals, students, migrants, and people on low incomes. In County Durham the majority of HMOs are located in Durham City and are occupied by students of Durham University.
- 7 The University is an intrinsic part of the City, bringing a range of jobs, students and researchers benefiting the economy of the County as a whole. It is also a large university in relation to the size of the City and as a result students make up a significant proportion of the term time population contributing greatly to its economy and vibrancy. However there can also be an adverse impact on the amenity of residents and local businesses in areas where student HMOs are dominant. This policy will therefore be used to assess the acceptability of a proposal for an HMO, balancing the contribution that such a conversion will make to meeting housing demand against the potential harm that might be caused to the character and amenity of the surrounding area and the suitability of the property concerned.
- 8 The Student HMOs are not spread evenly throughout the City. The highest concentrations are in the viaduct area, where over 90% of all properties are thought to be HMOs, and the adjoining areas of St Nicholas and Crossgate. In recent years, more students have been occupying houses around Elvet and Whinney Hill, which is very close to the main University campus and students' union. There is a general perception that students want to live as close to the city centre as possible. However, because of increasing demand, students are also moving into other areas including the Sands, Neville's Cross and Gilesgate. It is estimated that there are

around 350 HMOs that fall under mandatory HMO licensing. It is also suggested that there are an additional 1,200 - 1,400 two storey or smaller HMOs in Durham City. This may be an underestimate as not all HMOs are occupied by students. Members of the community have a desire to see HMOs return to family use.

- 9 In areas where the community is considered unbalanced due to the number of HMOs, the Council is committed to removing permitted development rights on applications for C3 dwellings to allow the local authority to refuse change of use to C4. This is achieved by making an Article 4 Direction
- 10 Part A of the Policy uses a threshold of 10% of the total properties in an area already being HMOs or student accommodation or the population within those properties exceeds 20% of the population in that area. These 'tipping points' have been derived from, and are in line with, section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', which was published in 2008.
- 11 In order to assess the percentage of HMOs or student exempt properties within 100m of an application for an HMO, the Council will use Council Tax information consisting of those properties with Class N exemption mapped using the Council's GIS mapping system.
- 12 In relation to parking each application will be assessed on an individual basis taking into account the capacity of the street, the controlled parking zone (CPZ), and any education providers restrictions on students having cars whilst attending that institution
- 13 Poor management of rubbish and recycling at HMOs can lead to unattractive frontages, problems with vermin and raise concerns over health and safety. Such issues can affect the amenity of nearby properties and may lead to complaints from neighbouring residents. These matters should therefore be appropriately addressed at the planning application stage. Applications will be expected to be accompanied with appropriate details of how household waste and recycling will be stored and presented for collection at the property. This should include layout drawings of the application site and its surroundings, clearly indicating the bin storage area. Acknowledgment should be made of the fact that the occupiers of an HMO may generate more waste than a single household with the same number of occupiers.

### **Purpose Built Student Accommodation**

- 14 Purpose Built Student Accommodation (PBSA) is accommodation built, or converted, with the specific intent of being occupied by students – either individual en-suite units or sharing facilities. PBSA is a building which is not classified as Use Class C4 or anything licensable as an HMO.

- 15 The Council has received an increasing number of enquiries from developers regarding purpose built accommodation proposals. Recent planning applications show that this may lead to potential oversupply of student bed-spaces when compared to demand from the projected growth in student numbers. The consideration of 'need' for additional student accommodation which developers must undertake shall include, but not be limited to, waiting lists for existing places (both University and privately owned stock) and should consider the potential contribution of schemes with planning consent.
- 16 Assessing proposals for new purpose built accommodation against the criteria above will ensure that schemes are progressed in appropriate locations which meet the Council's regeneration priorities. In seeking to meet need, the Council recognises that PBSA can increase choice for the student population. On this basis, the level of need identified within Durham University's Residential Accommodation Strategy is not considered to be a 'ceiling'.
- 17 However, new student accommodation should not be built at the expense of general housing as the Council must address the need for new family and affordable housing. In order to protect the delivery and supply of sites for general housing, proposals for purpose built student accommodation on sites allocated for general housing in this Plan, will not be generally acceptable.
- 18 The provision of further bed-spaces in PBSA may assist in enabling students to choose managed accommodation rather than HMOs. The impacts of a large number of students living in an area can be more easily mitigated when they are living in purpose built accommodation rather than a number of HMOs.
- 19 Applicants or developers of PBSA will be expected to produce a management plan. This should set out what measures will be put in place to ensure the best integration of the development with the local community and neighbours. It will also address issues such as (but not limited to), the tenants moving in and out at the beginning and end of each term, management of the building, tenancy agreements, fire and health and safety and community liaison.
- 20 The County Durham Parking and Accessibility Standards for Non Residential Development 2014 were approved by the Council on 7th May 2014. They include standards for student accommodation. The standard in Durham City is different from the rest of the county in recognition of the fact there is a controlled parking zone ( CPZ) and students would not be issued with permits to park in the CPZ. It requires 1 space per 5 members of staff plus disabled persons parking space. No requirement is made for student car parking if the accommodation is within the CPZ. Outside the CPZ the requirement is 1 per 5 members of staff plus 1 space per six students.

- 21 Cycling parking requirements are a minimum of 1 enclosed covered space per 5 students plus 1 short stay space per 20 students.

#### **Article 4 Direction**

- 22 Article 4 directions are one of the tools available to local planning authorities in responding to the particular needs of their areas. They do this by allowing authorities to withdraw the 'permitted development' rights that would otherwise apply by virtue of the Town and Country Planning (General Permitted Development) Order 1995 as amended. An Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the local planning authority for that development.
- 23 The Council has sufficient evidence for the making of an Article 4 Direction in Durham City for the removal of permitted development rights in relation to changes of use from Use Class C3 to Use Class C4 (as defined in the Town and Country Planning (Use Classes) Order 1987, as amended). The area of the City that will be covered if the Direction is approved will be set out in a report and subject to consultation.

## Appendix 6: Timetable and Procedure

### Part A: Article 4 Direction

Stage	Actions	Dates
Evidence Development	Develop background Paper for Article 4	December 2015 – May 2015
	Prepare recommendation for Head of Planning and Assets	May 2015
Approval	Head of Planning and Assets to endorse recommendation	June 2015
	RED MT	11 June 2015
	CMT	24 June 2015
	Cabinet Pre Agenda	3 July 2015
	Cabinet Briefing	13 July 2015
	Cabinet	15 July 2015
Process of Making an Article 4 Direction	Legal to make the Direction	July 2015
	Legal to comply with publicity requirements (press and site notice, serve notice on owner / occupiers, notify Sos)	August 2015
	Consultation period (minimum 21 days)	September / October 2015
	Having taken into account any representations, the Direction confirmed any time after 28 days and up to 12 months from publicity (assuming SoS does not specify a longer period than 28 days)	November 2015
	Legal comply with publicity requirements of confirmation – press and site notice, serve notice on owner occupiers and notify SoS	November 2015
Confirmation of Article 4	Direction comes into force 12 months after publicity requirements satisfied (consultation period and confirmation period can run concurrently with 12 month period)	July 2016

### Part B: Interim Policy

Stage	Actions	Dates
Evidence Development	Consider options for Interim Policy	May 2015
	Prepare recommendation for Head of Planning and Assets	June 2015
Approval	Head of Planning and Assets to endorse recommendation	June 2015
	RED MT	11 June 2015
	CMT	24 June 2015
	Cabinet Pre Agenda	3 July 2015
	Cabinet Briefing	13 July 2015
	Cabinet	15 July 2015
Consultation	The Interim Policy would be subject to public consultation for a period not less	September / October 2015

Stage	Actions	Dates
	than 6 weeks	
	The comments made during the consultation would be considered with any amendments made to the Policy;	November 2015
Adoption	The comments and any amendments would be reported to Cabinet.	November / December 2015

Appendix 7: Review of Article 4 Directions and PBSA Policy Approaches.

City / Town	Immediate / Non Immediate	Date implemented	Area	PBSA Policy?	Quantitative / Qualitative need for PBSA within Policy?
Ashford	Non-immediate	1 December 2012	4 wards	Draft Local Plan not yet published – no existing policy	N/A
Barking & Dagenham	Non-immediate	14 May 2012	Boroughwide	Early stages of Local Plan – no existing policy	N/A
Basingstoke	Non-immediate	22 July 2012	Basingstoke Town, Chineham, Old Basing and Oakley	No	N/A
Bath	Non-immediate	1 July 2013	City of Bath	No	N/A
Bournemouth	Non-immediate	16 December 2011	Boroughwide	No	N/A
Brighton	Non-immediate	5 April 2013	5 wards	Yes – but to be subject to Examination	No requirement for need in Policy. Separately 5 sites allocated for PBSA
Bristol	Non-immediate	11 December 2011	5 wards	No	N/A
	Non-immediate	21 October 2012	2 wards		
Canterbury	Non-immediate	25 February 2016	City of Canterbury and a number of adjoining wards	Yes – but to be subject to Examination	Qualitative – concentration of students
Charnwood	Non-immediate	12 February 2012	Loughborough	No	N/A
Cheshire West & Cheshire	Non-immediate	8 July 2013	Garden Quarter Area of Chester	No	N/A
Exeter	Non-immediate	1 January 2012	Parts of 4 wards and the whole of St James ward less 9 streets	Yes	Qualitative – concentration of students
Hastings	Non-immediate	2 July 2012	Boroughwide	Yes	No requirement for need in Policy
Hillingdon	Non-immediate	24 March 2013	2 Wards	No	N/A
Hull	Non-immediate	9 October 2013	Part of the avenues, Pearson Park, Newland,	Saved Policy (2000)	Qualitative - Concentration of similar uses (not specific to students)

City / Town	Immediate / Non Immediate	Date implemented	Area	PBSA Policy?	Quantitative / Qualitative need for PBSA within Policy?
			Newland Park, Inglemire and Beverley Road areas		
Leeds	Non-immediate	10 February 2012	Part or all of 14 wards	Yes	Qualitative – concentration of students
Manchester	Non-immediate	8 October 2011	Citywide	Yes	Qualitative - Developers required to demonstrate need for a scheme
Milton Keynes	Non-immediate	23 December 2011	Boroughwide	No	N/A
	Immediate*	30 December 2010 lapsed 30 June 2011	Boroughwide excluding wards of Hanslope Park, Olney, Sherington and Danesborough		
Newcastle	Non-immediate	25 November 2011	Parts of six wards	Yes – states PBSA should be focused within the Urban Core	No requirement for need in Policy
	Non-immediate	9 December 2012	Parts of two wards		
	Non-immediate	9 August 2013	St Gabriels Estate, Heaton		
Northampton	Immediate*	14 February 2011	Wards of Sunnyside, St David's and Obelisk	No	N/A
	Non-immediate	28 February 2012	Wards of Castle, Abington, Trinity, Phippsville, Semilong, Kingsley, Kingsthorpe, St David's, Sunnyside, Spring Park, Obelisk and Delapre and Briar Hill		
Nottingham	Non-immediate	11 March 2012	Citywide	No specific policy but requirement to consider housing mix in areas of high concentration of student households	Qualitative - No specific policy but requirement to consider housing mix in areas of high concentration of student households
Oxford	Non-	24 February	Citywide	Yes	Quantitative – the

City / Town	Immediate / Non Immediate	Date implemented	Area	PBSA Policy?	Quantitative / Qualitative need for PBSA within Policy?
	immediate	2012			policy seeks to ensure that the provision PBSA keeps pace with any increase in student numbers**.
Ormskirk	Non-immediate	December 2012	Ormskirk and Aughton	Yes	Qualitative – need for increased provision is to be demonstrated
Plymouth	Non-immediate	14 September 2012	12 neighbourhoods in the City of Plymouth	No specific policy but requirement to consider housing mix and student accommodation should not dominate	No specific policy but requirement to consider housing mix and student accommodation should not dominate
Portsmouth	Non-immediate	1 November 2011	Citywide	Yes – an SPD October 2014	Qualitative – acknowledges need at the current time – will monitor to avoid an oversupply
Preston	Non-immediate	28 January 2013	Plungingtoon; Moor Park; Deepdale; Ashton, Tulketh; Avenham, Broadgate, Frenchwood and around County Hall	Yes	Qualitative – proposals for student accommodation will need to be justified considering existing supply of and need for student accommodation
Sheffield	Non-immediate	10 December 2011	City Centre area	No – but Student Accommodation Strategy 2014-2019	No – but Council will create information pack for developers detailing supply, demand and design
Southampton	Non-immediate	23 March 2012	Citywide	No – but City Centre Action Plan (2015) states PBSA will generally be supported	No
Thanet	Non-immediate	4 February 2012	District wide	No	N/A
Warwick	Non-immediate	1 April 2012	6 wards	No	N/A
Welwyn Hatfield	Non-immediate	12 January 2012	Citywide	No	N/A
Winchester	Non-immediate	11 April 2016	Stanmore area	No	N/A
York	Non-immediate	20 April 2012	Citywide	Yes – but to be subject to examination	Qualitative – PBSA will be supported where there is a proven need

\*Only two local authorities, Milton Keynes and Northampton, appear to have made an immediate Article 4 direction in relation to HMOs. In both cases, these were restricted to relatively small areas of 'peak' concern and were accompanied or followed by non-immediate Article 4 directions in relation to larger areas. Both of the immediate cases were implemented soon after the change in the permitted development rights in 2010 and early 2011.

To note, Milton Keynes subsequently allowed the immediate direction to lapse because they had doubts about their ability to enforce it and concerns about the possibility of compensation payable.

\*\* The Oxford LPA Policy does have a quantitative element. The policy seeks to ensure that the provision PBSA keeps pace with any increase in student numbers. It states that planning permission will only be granted for additional accommodation where the University can demonstrate that the number of full-time students at the University, who live in Oxford but outside of university-provided accommodation, will, before the particular development is completed, be below the 3,000 level and once that figure is reached, thereafter will not exceed that level. All future increases in student numbers at the two Universities as a result of increases in academic/administrative floor-space must be matched by a corresponding increase in purpose built student accommodation.

**Appendix 8 Evidence Paper: Houses in Multiple Occupation – Article 4  
Direction, Regulation 7 Direction, Additional Licencing. (June 2015)**