

# **Evidence Paper**

## **Houses in Multiple Occupation**

### **Article 4 Direction Regulation 7 Direction Additional Licencing**

**June 2015**

**Durham County Council**

## 1.0 Introduction

- 1.1 The purpose of this report is to consider the evidence for the introduction of:
- an Article 4 Direction in relation to change from Use Class C3 to Use Class C4;
  - a Regulation Article 7 Direction in relation to lettings boards and
  - an Additional Licensing Scheme for Houses in Multiple Occupation (HMO).
- 1.2 This report has been prepared following discussions the County Durham Plan Examination in Public Matter 13 Part 2. At this session the representors called for the introduction of an Article 4 Direction, a Regulation 7 Direction and an Additional Licencing Scheme. This was related to discussions on Policy 32: Houses in Multiple Occupation and Student Accommodation, of the County Durham Plan.
- 1.3 As part of these discussions it was noted that the introduction of an Article 4 Direction, an Article 7 Direction and Additional Licensing was outside of the scope of the County Durham Plan. It was set out that each of these elements would require evidence that is distinct and separate from the evidence base for a Local Plan.
- 1.4 Furthermore, it was set out that when evidence has been considered previously, it has not supported the need for the introduction of an Article 4 Direction. The Council commissioned the Building Research Establishment to explore the opportunity for an Article 4 Direction. The study<sup>1</sup>, which reported in 2012, did not recommend the introduction of an Article 4 Direction or an Additional Licensing Scheme.
- 1.5 However, in recognition of the concerns raised, the Council provided a commitment to revisit the appropriateness of Article 4 and Article 7 Directions. This report also considers the scope for an Additional Licencing scheme.

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<sup>1</sup> BRE (2012) [The need for Additional HMO Licensing and Article 4 Direction in Durham City: a feasibility study](#). County Durham Plan Examination Library Part 1 (Doc ref H15)

## 2.0 Context

### The County Durham Plan

- 2.1 At the Preferred Options stage of the County Durham Plan (2012)<sup>2</sup>, Policy 10 Student Accommodation, allocated a site at Mount Oswald as being suitable for purpose built student accommodation (PBSA). Policy 10 also stated that proposals for student accommodation would be permitted provided that the development did not conflict with other policies in the Plan.
- 2.2 Following representations made at the Preferred Options consultation stage, Policy 32 Houses in Multiple Occupation and Student Accommodation, was developed for inclusion as part of the Pre-Submission Draft version of the Plan. This Policy provided a means to consider applications for a change of use from Use Class C3 to C4, where planning permission is required, or C3 to HMO in a sui generis class.
- 2.3 Policy 32 was considered at the County Durham Plan Examination in Public on the 17<sup>th</sup> of October 2014. As an outcome from this session, the Inspector requested that the Council met with objectors in order to develop a revised Policy. At the Hearing session and at this subsequent meeting, those seeking a change to the Policy sought a commitment within the Policy that the Council would introduce an Article 4 Direction to control HMOs, a Regulation 7 Direction to control lettings boards and an Additional Licensing Scheme. The Council submitted a document reflecting the different positions of those seeking a change to the Policy and a revised version of Policy 32 seeking to incorporate as many of the objectors aspirations as possible<sup>3</sup>. In this document, which set out the Council's proposed Main Modification to the Policy it was set out in the supporting text that that evidence for an Article 4 Direction would be considered. Those objecting to the submitted version of Policy 32 submitted a version of Policy 32 which reflected their aspiration that the supporting text should make specific commitment to the Council's willingness to implement an Article 4 Direction<sup>4</sup>.
- 2.4 On the 18<sup>th</sup> February 2015 the Council received the Inspector's Interim Report<sup>5</sup>. At paragraph 4, in providing a summary of the Inspector's interim views it is stated (amongst other things) '*There are concerns about the content and soundness of policies in relation to Houses in Multiple Occupation and Student Accommodation. The Proposed Main Examination Hearing Change for Policy 32 is not sound, effective or sufficient to achieve more balanced communities*'; The Inspector specifically considers Houses in Multiple Occupation and Student Accommodation at paragraphs 102 – 104 of his report. Here, the Inspector suggested an alternative policy wording, as set out in DCC49 by those objecting to the Policy. Legal advice to the Council on the status of Plan policies in the light of the Interim Report suggests that they

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<sup>2</sup> [County Durham Plan Preferred Options](#) (2012)

<sup>3</sup> EIP Library Part 2, DCC42, [Policy 32 Student Accommodation Comparison Table](#) (12/11/14)

<sup>4</sup> EIP Library Part 2, DCC49, [Correspondence received regarding HMOs/PBSA](#) (14/11/14)

<sup>5</sup> EIP Library Part 2, INSP5 Inspector's Interim Report (18/02/15)

can carry only very limited weight, unless they are not subject to significant objection, nor adverse comment in the Interim Report – when they could attract more than very limited weight. Policy 32 (as included in the submission draft) is subject to significant objection and the Council’s proposed change is subject to adverse comment in the Report. Further, the Inspector’s proposed policy wording has no status in terms of a Council position upon it nor has it been subject to consultation. As such no weight can be ascribed to the Council’s Policy 32, or the Inspector’s proposed Policy 32.

## Student populations in County Durham

2.5 The Strategic Housing Market Assessment (SHMA)<sup>6</sup> notes that out of the 223,803 occupied dwellings in County Durham, 1,504 of these are student lets – that is less than 1%. The student lets are concentrated within the Central Durham Delivery area, with 42.0% of all wholly student rented dwellings are located in Central Durham, and of this number 25.5% are located in Durham City. This serves to demonstrate that concentrations of student accommodation is predominantly an issue for Durham City.

## Durham University Student Population

2.6 The following table shows the Durham University student numbers over the last 10 years<sup>7</sup>. It only gives the figures for Durham City. It does not include Queens Campus, Stockton. The numbers include home and overseas students in each category. This table demonstrates that there has been a general increase in the number of students within Durham City over the past 10 years.

Year	Undergraduates	Postgraduate Research	Postgraduate Taught	Total
2014/15	10,727	1,592	2,632	14,951
2013/14	10,377	1,552	2,453	14,382
2012/13	10,085	1,533	2,467	14,085
2011/12	9,906	1,600	2,343	13,849
2010/11	9,669	1,587	2,442	13,698
2009/10	9,542	1,600	2,339	13,481
2008/09	9,400	1,495	2,173	13,068
2007/08	9,471	1,404	2,138	12,993
2006/07	9,662	1,191	1,849	12,702
2005/06	9,728	1,144	1,963	12,835

## Further and Higher Education in Durham City

2.7 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 set out its ambition to increase student numbers in the City from 13,500 to 15,300

<sup>6</sup> County Durham Strategic Housing Market Assessment 2013 Update

<sup>7</sup> <https://www.dur.ac.uk/student.registry/statistics/summary/1.1summary/>

by 2020 (a 13% increase) but it also intends to increase the percentage residing in purpose built student accommodation (controlled by the University) from 43% to 50%.<sup>8</sup> Since the Residential Accommodation Strategy was published in 2012 the University has revised its figures and estimates that student number in the City will rise by 359 by 2020. (See table at Appendix 4)

- 2.8 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 impact on the amenity of residents and local businesses in areas where student HMOs are dominant.
- 2.9 New College, East College and University Hospital of North Durham are institutions within Durham City that also contribute to the student population within the City.
- 2.10 Over a period of time some Durham City residents have expressed concern in relation to the increase in student numbers and the associated increase in students living in HMOs. It has been suggested that communities have become imbalanced, that there has been an increase in crime and antisocial behaviour and that there has been an impact on the amenity of local residents as a result of students living in HMOs. At the Examination in Public it was requested that the Council introduce an Article 4 Direction to control HMOs, a Regulation 7 Direction to control lettings boards and an Additional Licensing Scheme. The Pre-Submission Draft Consultation Feedback Report (EiP Doc Ref: C1), sets out the main concerns residents of the City have in regard to student accommodation and Policy 32. Although there are education establishments and students across the County, the issues have been raised by residents of Durham City.

#### **BRE report 2012 The need for Additional HMO Licensing and Article 4 Direction in Durham City: a feasibility study.**

- 2.11 The Council commissioned BRE to consider the case for Additional Licensing and an Article 4 Direction. This work formed part of the evidence base for the development of the County Durham Plan.
- 2.12 The brief for the study was to carry out a feasibility study to establish whether there is sufficient evidence to consider introducing an Additional HMO Licensing scheme and to identify the key barriers to introducing it or making it work in practice. This involved assessing:
- the efficacy of management of the non-licensed HMOs
  - the physical condition of the HMOs
  - the physical condition of the area and environment

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<sup>8</sup> [Durham University Residential Accommodation Strategy 2012-2020](#) (2012) County Durham Plan Examination Library Part 1 (Doc ref H16)

- the incidence and severity of crime and anti-social behaviour in this area and other areas of Durham County Council
- the opinions and ideas of landlords who own the HMOs and those owning other tenanted property
- the opinions of other owners in the area
- the opinions of residents and occupiers
- the opinions of partner organisations.

2.13 Another method of controlling the proportion of HMOs relative to other types of stock is via the use of additional planning controls using an Article 4 Direction. The Brief given to the appointed consultants (BRE), asked them to also consider the opportunities for an Article 4 Direction. This could be used either instead of, or in addition to, Additional HMO Licensing. The information gathered above will help inform the decision as to whether this may be a feasible option. However, because this measure will only serve to help to prevent more HMOs being created, the following additional information was also examined:

- the housing market conditions concerning dwellings suitable for and currently being let as small HMOs
- opinions and ideas of residents and occupiers, landlords and others about these more 'marginal' areas where student numbers have been starting to increase.

2.14 BRE was involved in collecting the above information by carrying out focus groups, meetings and interviews. The team devised survey forms to collect key information about dwelling and area condition overall and detailed information about the internal condition of unlicensed HMOs. These surveys were carried out by DCC environmental health officers. The BRE team also assisted DCC to prepare a consultation questionnaire about Additional HMO Licensing and a potential Article 4 designation.

2.15 The final report, 'The need for Additional HMO licensing and Article 4 Direction in Durham City: a feasibility study', (August 2012 is in the Examination library as part of the Councils evidence base for the County Durham Plan (Doc Ref: H15).

### **BRE report findings and caveats**

2.16 The report concluded that at this stage the evidence did not suggest it was appropriate to introduce either an Additional Licensing Scheme or an Article 4 Direction.

2.17 There are concerns that the Brief given to BRE may not have made clear some of the divisions of responsibilities between the agencies operating in Durham and may not have clarified what some of the agencies do. These issues are explored below. However it is believed these issues do not affect the overall thrust and conclusions of the report.

### **Issues raised**

- 2.18 The report makes reference to the University but contact seems to have been limited to the Students Union and not the Estates and Buildings Department. This may have been a fault of the Brief or of the project management in not making it sufficiently clear who should be consulted. This affects a number of points attributed to the University and means that higher level strategic input from the Estates Department wasn't made at the time and some wider implications have not been drawn. These points were considered in subsequent discussions between representatives of the Council and the University.
- 2.19 The report mentions a University Code of Standards Scheme covering 70% of all student HMOs as being current whereas, this Scheme ceased to operate in 2010.
- 2.20 There is said to be confusion as to who had responsibility to ensure that students deal with refuse and waste. It's not clear whether it should be the Council, the University, the landlord or the agent. In fact most of these have limited responsibility although it is accepted they could encourage students to act correctly and responsibly.
- 2.21 Advertising boards are said to blight the area and advertise to burglars that properties are occupied by students and will either be empty or contain lots of high value equipment or items. There is no evidence for the suggestion that student properties disproportionately attract burglars. The Complete University Guide<sup>9</sup> ranks Universities according to crime rates. The latest ranking using data compiled from [www.police.uk](http://www.police.uk) from May 2012–April 2013, correlating crime and population for wards falling within three miles of the main campus, for burglary, robbery and violent crime, normalised for population density, puts Durham second lowest in terms of crime rates for universities in England and Wales. In relation to the first point, 'To Let' boards are mostly used in December / January / February for the following academic year. This is where they are used at all as a lot of properties are advertised through the Internet.
- 2.22 In relation to noise nuisance, the report states that the University hotline is appreciated by residents and provides a good response for one off major incidents. In fact the University security responds at all times and to the incident whether or not it involves students. This is recorded in the Durham University Security Reports. The University also uses its disciplinary powers against students found guilty of anti-social behaviour (ASB). For example, students can be fined by their colleges for ASB even when living out.
- 2.23 According to the report, stakeholders were frustrated at the lack of productive communication between groups and especially with the University. The Council meets with the University on a regular basis. The University is represented on the AAP Board, the City Centre Development Sub-Group, the Neighbourhoods Sub-Group and Residents Associations.

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<sup>9</sup> [Extract from the Complete University Guide - Crime in University Cities](#) (2014)

- 2.24 The report claims that local shops, services and amenities are increasingly geared towards students at the expense of older, more settled residents. This is suspected to be incorrect with Durham City's retail offer believed to benefit from the student population as opposed to the offer that would be available if the students weren't there. The report also states that areas with high proportions of student properties which are empty for predictable periods of the year make the area vulnerable to burglary and other property crime. As has been stated above this is not born out by the statistics. Durham City is a low crime area.
- 2.25 Durham is described in the report as a small city with a population of around 20,000 of whom 12,733 are full time students at Durham University. The population is actually about 47,000 with around 14,000 students. The report acknowledges that the University is a major employer and says that it indirectly supports a number of local enterprises, for example, taxi firms, newsagents and takeaways. Whilst accepting this is true it underestimates the massive economic impact the University has both locally, regionally and nationally.
- 2.26 There is a statement in the report that most undergraduate students want to 'live out'. However first-years must 'live in'. This is an integral part of the University's collegiate model. Second years must 'live out', for third years it's optional.
- 2.27 It is considered that even with the qualifications and further explanations regarding the issues raised, the conclusions of the BRE report would not be altered as the issues could be held to be background or clarification points.

## **Report Conclusions**

- 2.28 The report identifies a number of perceived problems that were identified by stakeholders:
- The condition of HMOs
  - Lack of regulation and enforcement
  - Refuse
  - Advertising
  - Anti-social behaviour
  - Communication
  - Lack of sustainable communities
- 2.29 These issues are considered throughout the report. It concludes that an additional licensing scheme would not address many of the problems. There are several other courses of action available to DCC to deal with the problems related to the properties themselves and any nuisance caused. The options include: developing a landlord Accreditation Scheme in conjunction with the University that complies with the Unipol code; using existing legislation and enforcement powers to tackle poor conditions and management standards; and reviewing and improving refuse and recycling facilities and services in Durham City.



- 2.30 In relation to an Article 4 Direction the report considers that what is really needed before any decision is made about an Article 4 Direction is an open and constructive dialogue between all the key parties (DCC, the University, students, residents and landlords) to create an agreed strategy for coping with the number of students. DCC also needs to consider producing for Durham City a Supplementary Planning Document on sustainable communities or mixed use. Providing purpose-built accommodation to cope with this expansion (and some existing students) would take some of the pressure off the City centre. However, its location, design and management need careful thought to ensure that it does not create additional problems. The Council would need to consider carefully which area any Article 4 Direction should apply to. Designating just the 'new' student areas and leaving the established student areas unprotected would probably just make the problems with high densities, refuse, noise etc. in the established student areas even worse than they are now. The Council would also need to consider how rules and or quotas are set and how these are measured and policed.

### **Commentary**

- 2.31 The evidence suggests that there is further work to be undertaken before the case for an Additional Licensing Scheme could be made out and that the evidence for an Article 4 Direction is finely balanced. Some of the perceived problems will not be solved by a planning solution but involve closer working between the various stakeholders. Prematurely opting for Additional Licensing or an Article 4 Direction could be open to legal challenge by affected parties if the Council could be considered to be continuing without having explored all the alternatives.
- 2.32 An Article 4 Direction is not backdated. It cannot undo what has already happened in an area. There are no funds available to incentivise conversion of an HMO back to a dwelling. This has been proposed by some local authorities as a possible aid to rebalancing communities. One consequence of the introduction of an Article 4 Direction may be to cause existing homeowners in an area with a high concentration of HMOs to have difficulty in selling their property or for the value of their property to decrease. This is because they may find it difficult to sell to another owner occupier because of so many students nearby, and a landlord may not buy because of the restricting effect of the Article 4 Direction.
- 2.33 The University's Residential Accommodation Strategy 2012 - 2020 sets out that the expected number of students in Durham City will be around 15,300 students (up 1,800 from the 2012 baseline). If more of these students can be accommodated in purpose built accommodation (there are schemes for such accommodation being discussed), then it has been suggested this is likely to take pressure off existing HMOs. However the occupancy of properties is outside of the planning system. This is not something that the Council would have control over. The University intends to increase the proportion of 'livers-in' from its current level of 43% to a minimum of 50%.

### **Purpose Built Student Accommodation (PBSA)**

- 2.34 The issue of student accommodation in Durham City has become more prominent in recent months because the City has been stated to be good place invest in PBSA. PBSA in general is said to produce a good return on the investment.<sup>10</sup> As a result there have been a number of applications for PBSA of varying size and in varying locations around the City.
- 2.35 Some people argue that all student accommodation is a detriment to the City. Some argue PBSA is not good for the city creating concentrations of students and stopping the land being used for other purposes. (Doc Refs: RS139 and RD47)) Others believe that an increase in the amount of PBSA will mean students will vacate HMOs and move into PBSA releasing HMOs for family use or will be left vacant.(Doc Ref RS154).
- 2.36 It is considered that PBSA contributes to the range and choice of accommodation for students. Institutions are not able to provide accommodation for all of their students so students will seek private accommodation. New build or converted PBSA gives an option other than the private rented sector (HMOs and smaller units).
- 2.37 Some of the respondents to the Statement of Matters have suggested that if HMOs become vacant they will be occupied by families. The Council believes that if students do vacate HMOs it is unlikely they will be occupied by families. Some HMOs will not be considered suitable for family use because of reconversion costs. In addition, Some HMOs will not have sufficient external space in terms of play area or garden space. Some will be surrounded by other HMOs which may put families off moving into an area. Furthermore, if there is a fall in demand for HMOs (resulting from competition from PBSA) the landlords may have the financial flexibility to reduce the rents to encourage occupancy.. HMOs will also appeal to occupiers other than the student population.

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<sup>10</sup> Knight Frank- Student property 2014  
Savills – UK Student Housing 2014

## 3.0 Article 4 Direction

### Introduction

- 3.1 Article 4 Directions are one of the tools available to local planning authorities to respond 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.
- 3.2 Local planning authorities should consider making Article 4 Directions only in those circumstances where evidence suggest that the exercise of permitted development rights would harm local amenity or the proper planning of the area.
- 3.3 In relation to HMOs an Article 4 Direction would be made to allow 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. If an Article 4 Direction is considered to be appropriate a decision would also have to be made as to what area of the City would be covered. An Article 4 Direction would not be retrospective and would not affect the situation as it is now. There would not, as a result, be a reduction in the number of HMOs.

### Policy and Guidance

- 3.4 NPPF Paragraph 200 states that the use of Article 4 Directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area (this could include the use of Article 4 Directions to require planning permission for the demolition of local facilities). Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
- 3.5 The Planning Practice Guidance (PPG) also sets out general information about permitted development rights and the use of Article 4 Directions to remove them.
- 3.6 The Government report 'Evidence Gathering – Housing in Multiple Occupation and Possible Planning Responses' (CLG 2008) looks at the potential problems caused by high concentrations of HMOs and considers the current and potential mechanisms to address these problems. Within the report, the following issues are said to be associated with high concentrations of HMOs. These issues will be considered in this report when assessing the need for an Article 4 Direction:
  - Anti-social behaviour, noise and nuisance;

- Imbalanced and unsustainable communities;
- Negative impacts on the physical environment and streetscape;
- Pressures upon parking provision
- Increased crime;
- Growth in private rented sector at the expense of owner-occupation;
- Pressure upon local community facilities and;
- Restructuring of retail, commercial services and recreational facilities to suit the lifestyles of the predominant population

### **The scope of any Article 4**

- 3.7 Provided there is justification for both its purpose and extent, it is possible to make an Article 4 Direction covering:
- Any geographic area from a specific site to a local authority wide
  - Permitted development rights related to operational development or change in the use of land
  - Permitted development rights with temporary or permanent effect
- 3.8 Article 4 Directions cannot be used in relation to any type of development other than those explicitly granted permitted development rights through the GPDO, nor can they be applied retrospectively to development undertaken before a Direction comes into force, nor to development that has been commenced at the time that a Direction comes into force.

### **Procedural considerations**

- 3.9 In procedural terms there are two main types of Article 4 Direction:
- Non-immediate Directions (permitted development rights are only withdrawn upon confirmation of the Direction by the local planning authority following local consultation); and
  - Immediate Directions (where permitted development rights are withdrawn with immediate effect, but must be confirmed by the local planning authority following local consultation within six months, or else the Direction will lapse).
- 3.10 Any planning application required as a consequence of an Article 4 Direction is exempt from the usual planning application fee.
- 3.11 Before April 2010 the Secretary of State had to confirm certain Article 4 Directions, but now it is for the local planning authorities to confirm all Article 4 Directions (except those made by the Secretary of State) in the light of local consultation.
- 3.12 A local planning authority can, by making a subsequent Direction, cancel an Article 4 Direction made by them. To modify an Article 4 Direction, an LPA would have to cancel the existing Directions and prepare a replacement Direction. Where a Direction would cancel an existing Article 4 Direction, the same procedures apply as for making a new Direction of that type.

- 3.13 If a local planning authority makes an Article 4 Direction, it can be liable to pay compensation to those whose permitted development rights have been withdrawn, but only if it then subsequently:
- refuses planning permission for development which would otherwise have been permitted development; or
  - grants planning permission subject to more limiting conditions than the general permitted development order
- 3.14 The grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights. Compensation is not payable if notice of the withdrawal of development rights was published in the prescribed manner not less than 12 months or more than the prescribed period before the withdrawal took place.

### **DCC and Article 4 Direction - Timetable and procedure**

- 3.15 The decision to make an Article 4 Direction can be taken by the Council's Cabinet. The Head or Planning and Assets has delegated powers in para 16 of Table 4 of the Delegation Scheme, to authorise the making of an Article 4 Direction (currently page 77 of the Constitution). Once a report instructing Legal to make a Direction is signed off and Legal make the Direction, the procedure would be as follows:
- Place notice of making of the Direction in local press and site notice.
  - Serve notice of making of the Direction upon every owner & occupier affected unless it is impracticable to do so.
  - At the same time as the above, notify the Secretary of State of the making of the Direction and send a copy of it and the statutory press/site & ownership/occupier notifications to the National Planning Casework Unit.
  - A consultation period of not less than 21 days would then follow.
  - At the end of no less than 28 days, having taken into account any representations received during the consultation period, the Direction may then be confirmed with or without modification (NB a further round of consultations is required if modification is proposed). Non Immediate directions cannot come into force until after confirmation has taken place which cannot be before the 28 day period or such longer period as the Secretary of State may specify (and could be any time up to two years from publication). Immediate Directions come into force as soon as the publicity requirements above are met but will expire 6 months after they are made unless confirmed within that time.
  - Notice of confirmation of the Direction to be advertised, site notice and owners/occupiers to be notified in same way as above as well as notification to the Secretary of State.

### **Considering the requirement for an Article 4 Direction**

- 3.16 In considering whether an Article 4 Direction is appropriate, this paper seeks to draw upon three specific areas:

- i. The balance of evidence across a range of issues.
- ii. The extent to which an Article 4 direction would support sustainable inclusive and mixed communities
- iii. Representations and discussions at the Examination in Public on the County Durham Plan on Policy 32 – Student Accommodation, including the suggestion in the Inspector’s Interim Report that the absence of an Article 4 Direction represented an ‘escape clause’.

*i. Evidence*

- 3.17 As stated above, local planning authorities should consider making Article 4 Directions only in those circumstances where evidence suggest that the exercise of permitted development rights would harm local amenity or the proper planning of the area.
- 3.18 The following section sets out evidence in relation to a number of issues, in order to consider the potential benefits of an Article 4 Direction. We have tried to match the issues identified in the Government report ‘Evidence Gathering – Housing in Multiple Occupation and Possible Planning Responses’ (CLG 2008), mentioned above. We have attempted to use official data whether from and external agency or the Council’s information system.. ...
- 3.19 When considering evidence the following issues have been considered
- a) Crime
  - b) Antisocial Behaviour
  - c) Noise Nuisance
  - d) Appearance of properties
  - e) Waste
  - f) Parking
  - g) Community Facilities
  - h) the private rented sector in the City of Durham

<b>a) Crime</b>
<p>The Complete University Guide<sup>11</sup> ranks UK universities according to various factors. One of these is crime. Official data for crime specifically against students is not available, so the Guide states it has taken professional advice on the crimes most relevant to students and looked at – burglary, robbery and violent crime. The statistics are not specific to students but relate to the whole population of the defined area. The Guide lists the annual reported incidents per thousand residents for the period May 2013–April 2014, within wards or electoral divisions of which parts are within 3 miles of the main university or college campus, normalised for population density. The data is compiled from <a href="http://www.police.uk">www.police.uk</a>. Burglary includes offences where a person enters a house or other building with the intention of stealing; robbery includes offences where a person uses force or threat of force to steal; violent crime includes offences against the person such as common assaults, grievous bodily harm and sexual offences. Using this</p>

<sup>11</sup> <http://www.thecompleteuniversityguide.co.uk/>

data, the Guide ranks Durham as the fifth lowest University town in terms of the number of incidents.

Durham University students sometimes seem to be considered to be a main source of antisocial behaviour incidents in the City. "Students cause problems for settled residents through anti-social behaviour and pressure on on-street parking" (DCNPPF Doc Ref RS141).

This perception is not however supported by crime data. Indeed students are often the victims of crime. This is noted in response to recent consultation on applications for PBSA where the Police Architectural Liaison Officer's response has noted that security measures are needed because students are often the victims of crime, and are targeted for burglary getting laptops and bicycles stolen.

The website UK Crime Stats (reference as footnote) provides maps, reporting and analysis of monthly crime data in England and Wales. The data is provided by police force and the individual force breaks down the data by neighbourhoods. A number of the neighbourhoods cover Durham City and are relevant when considering the issues that are said to relate the impact of students on the population.

The data records the number of incidents in various categories but does not differentiate between population types. It is not possible to say if the incidents recorded have been committed by students or against students. The neighbourhoods have different populations. Analysis of the data comparing incidents per head of population across various neighbourhoods, suggests that those neighbourhoods that cover an area that could be called Durham City, do not have the highest number of incidents.

#### **b) Anti-social Behaviour**

Anti-social behaviour is not defined by the police but is a category of incident that they record on a monthly basis (the data is recorded as number of incidents in a month). In the Durham City neighbourhood the highest number of incidents seem to occur in October. (66 in October 2013 and 76 in October 2014). This compares with, for example, 31 in December 2013 or 60 in June 2014. A potential interpretation of these figures is that these are ASB incidents caused by students starting a new University year. It is not a pattern that is replicated in other police neighbourhoods where students live and may be a reflection of the number of pubs in the Durham City neighbourhood. The total number of ASB incidents for the Durham City neighbourhood is 500 for the year covering December 2013 to November 2014 which is the latest period covered by the data.

#### **c) Noise and nuisance**

The Council's Environmental Protection Team responds to complaints about noise. The data goes back to 2011 when a new record management system was introduced (Civica). For the period 1 April 2011 to 31 December 2014, there have been 6,640 noise complaints made across the whole County. Within the BRE study boundary for the same period, there

were:

- 38 noise complaints directly linked to HMOs
- 29 noise complaints from other domestic properties
- 43 noise complaints from commercial properties
- 35 noise complaints where the concern address could not be identified. These include cases where the complainant does not provide specific details of the complaint and where the noise is not premises specific e.g. street buskers.

#### **d) Appearance – internal and external**

See paragraphs 5.5 to 5.15 below

#### **e) Waste**

Some consultees to the Pre-Submission Draft Plan considered that there was an increase in litter due to the fact that there had been a disproportionate increase in A5 uses i.e. street food which was taxing local resources (waste removal). This was related to the suggestion that there had been an increase in the amount of A5 uses due to the increased number of students in the area.

The BRE report states that the physical survey of HMOs involved assessing how far refuse provision, short-term rubbish and long-term rubbish were a problem. Comparable information was collected for a sample of non-HMO properties in these areas as well enabling comparisons to be made. As the survey was conducted from January to April, it only reflects the position during term times; comments from the focus groups make it clear that problems are most severe at the end of the academic year.

The report looked at the differences between the management of long-term and short term rubbish in HMO and non-HMO properties, as assessed by inspecting officer whilst conducting the physical survey, with HMOs being more likely to have problems with both. Yet, short-term rubbish was deemed a minor issue for a third of HMOs and only a significant problem for 6%.

The report states that it is clear from responses to both the consultation and the focus groups that landlords, students and residents all have a rather different perception of what constitutes a significant problem with respect to rubbish and litter. Data from the consultation questionnaire showed that, 49% of owner-occupiers regarded rubbish and litter as a significant problem compared with 11% of student occupiers and 2% of landlords.

From the interviews and focus groups, it was clear that rubbish associated with HMOs in Durham was a major problem for neighbouring owner occupiers. This applied to household refuse and recycling as well as large items (furniture and white goods) and building waste when work is carried out to properties. The neighbourhood warden estimated that about half the



time spent dealing with rubbish and litter in the city centre related to student housing. Green back lanes were a particular problem in some areas. There was a great deal of criticism of the council's refuse service, particularly the adequacy of refuse bins provided; and many constructive suggestions were made for improvements. However, different groups vary in their perceptions about who should take responsibility for sorting out these problems: the council, the landlords or the students themselves. According to the BRE report, landlords, residents and the neighbourhood warden generally agreed that the main causes of the problems were that:

- Student households generate more waste than an 'average' household because there are more of them in a house. They eat more takeaways and often shop/cook separately.
- The bins provided are not adequate to take this additional waste. Additional waste is left in bags which the contractor employed by the council will not take (apart from areas where there is 'bag only' collection).
- Some students are 'not good' at putting out refuse. As set out previously, the survey found that one third of properties had a minor issue with 6% of properties having a significant issue.. Residents, landlords and the Accommodation Office have provided students with information about collection rules, days and what goes in which bin but these do not seem to have had much impact.
- Recycling facilities are sometimes inadequate. Recycling can also be confusing as it is different in different parts of the country, and so the new intake of students has to learn about the system in Durham.

The green back lanes are unadopted and so no-one has responsibility for them. As a consequence, some of the most severe problems happen here. This, however, would be the case regardless of tenure and this issue pre-dates conversion of dwellings to HMOs.

The Council's Environmental Protection Team record complaints received about domestic waste. For the period 1 April 2011 to 31 December 2014, there have been 4,263 complaints about domestic waste made across the whole County. Within the BRE study boundary for the same period, there were:

- 16 complaints directly linked to HMOs
- 19 complaints from other domestic properties
- 9 complaints found on inspection to relate to commercial premises
- 28 complaints where the concern address could not be identified e.g. back lanes or open land.

The Council's waste management service in conjunction with the University has organised special collections at the end of term to help deal with the increase in rubbish when the students leave.

The Council's Community Action Team (CAT) was active in Durham City between October and December 2014 working to clear some of the back lanes of rubbish in the City. They were helped by students who gave their

time and effort voluntarily. The CAT investigated and resolved 19 cases of accumulations and 5 cases where the refuse provision was deemed inadequate.

#### **f) Parking**

As with many university towns students are encouraged not to bring cars with them. The BRE physical survey of HMOs involved rating the parking provision in the block of houses. Comparable information was collected for a sample of non-HMO properties in these areas as well. There were problems for parking in over 40% of areas with HMOs, but for non-HMO properties this figure was only 20%. However there were notable differences depending on the area. Parking was considered to be a particular problem in the Whinney Hill area, but there were also problems in over 80% of a block of houses in the Sands, Nevilles Cross and traditional student areas (Viaduct etc.)

Responses to both the BRE consultation and the focus groups indicate that landlords, students and residents all had a rather different perception of what constitutes a significant problem with respect to parking. Data from the consultation questionnaire showed that, 36% of owner-occupiers regarded parking as a significant problem compared with 10% of student occupiers and 9% of landlords.

Durham University has clear regulation about students and cars set down in the Residential Licensing of Motor Vehicles (see Appendix 3. This states that "Every student of the University who lives within the designated area of Durham City and who keeps or causes to be kept for his/her use, any motor vehicle must obtain a University Motor Licence". Students can be fined if they are found not have a licence. Separately to this, the local authority has a controlled parking zone in some parts of Durham City, which means that residents need to pay for a permit, and in these area a maximum of two permits are issued per household. The University also decides which students can have vehicles and limits to two per household the number of permits that it will issue if a student lives in a shared house. Some respondents to the consultation would like to see this go further and even introduce a ban on students bringing cars into the city. One remarked "We would like the council not to issue parking permits to households which don't pay council tax". Others saw 'inadequate and overpriced' parking as a more general problem affecting Durham and not simply caused by students.

Residents in Whinney Hill noted that cars were parked and left in situ for long periods (many months) and the problems had increased over the years as more students had moved into the area. They commented that the number of cars parked on the road restricted the level of service received by residents by delivery vehicles, utility companies and others, who complained that they could not park in the area and would, at times, refuse to attend a property because it was located on Whinney Hill. A landlord with properties in the Viaduct area also felt that parking was a problem in this area, and residents also reported incidences of dangerous

driving down the very narrow streets.

Durham University in its Code of Conduct for Students Living Out of College, acknowledges that the two main sources of complaints from local residents are drunkenness and inconsiderate use and parking of cars or other vehicles.

There limited parking available in Durham and this is acknowledged with restrictive requirements in relevant planning applications.

#### **g) Vitality and Viability of the Town Centre.**

It has been suggested that there is an impact on the retail offer in the City due to the number of students. For example it is said that there has been a disproportionate increase in the number of fast food takeaways but this is a national trend and has happened in other parts of County Durham where there are limited student numbers.

The Council's Town Centre Surveys give an indication of the situation over the last three years. There has been an increase in Durham City of 0.9% in the number of A5 uses compared with the total number of retail units. 3.2% of the total are now A5 use in the City. This compares with, for example, 3.5% in Stanley town centre, 4.3% in Bishop Auckland town centre, 4.5 in Chester le Street, and 9.1% in Consett. These are all increases since the 2014 survey. In the case of Consett the increase has been 2.3%. Shildon and Ferryhill are examples of where the percentage of A5 uses have dropped. (Shildon -1.0%, Ferryhill -2.3%.)

The issue of the closure of the Waitrose store is also raised by people who object to students and student accommodation. (Example Doc Ref RD47<sup>12</sup>). These responses state that Durham is the only place where a Waitrose has closed. This is incorrect. The Durham store opened in 2005 and closed in 2008. The Southport store opened in 2004 and closed in 2006 and the store was vacant until late 2013 when new owners took it over. Since Durham, the Dartford store has closed and the Hertford store is closing once planning issues for the new store are sorted out. The issues around its closure of the store were not to do with students.

#### **f) Community facilities**

A number of consultee responses to the Pre-Submission Draft Plan suggested that PBSA schemes result in the loss of community assets or benefits in that the land or building is lost to other uses including residential uses. A recent outline planning permission (DM/14/01418/OUT), to change the Kingslodge Hotel in Waddington Street into student accommodation, was refused partly on the grounds that the proposal would lead to the loss of a community facility. On appeal this aspect of the original decision was not accepted by the Inspector. He stated that, "...there is no policy in the

<sup>12</sup> <http://durhamcc-consult.limehouse.co.uk/file/3196555>

City of Durham Local Plan that expressly protects such valued hospitality businesses, or the employment they offer, from a change to another use.”

**g) Growth in the private rented sector against owner occupation**

Using Census data the Council has analysed the percentage change in households from 2001 to 2011. This is in relation to owner occupation and the private and social rented sectors. In Durham City, during this period, the proportion of housing in owner occupation has reduced and conversely the proportion of housing within the rented sector has increased. There has been some switching between private and social renting. It is not possible to say that this has been due to a change in tenure attributable to an increase in students. Over the same period there have been fundamental changes in the housing market and an increase in the rented sector may be due to issues with the availability of mortgages.

- 3.20 The individual evidence sections detail any known data and the data sources. The number of incidents recorded by the official statistics may not be a completely accurate figure due to the way incidents are reported, whether it is to the University or the police and therefore how they are dealt with. Because of the uncertainty it is considered that it is best to use published data from the police, complaints data held by the Council and other relevant data sets rather than any anecdotal evidence.. However it is not always certain that reported incidents actually relate to students or occupiers of HMOs or ‘general’ residents of the City. The police have suggested that all incidents should be reported to them rather than the University.
- 3.21 The University has its own security service and incidents are reported to them. They respond whether or not it is ultimately identified that perpetrators are students. The University has a range of powers to deal with bad behaviour if it has been caused by students ranging from fines to expulsion from the University.

*ii. Sustainable, inclusive and mixed communities*

- 3.22 NPPF paragraph 50 notes the importance of creating sustainable inclusive and mixed communities. Whilst it is acknowledged that defining an ‘imbalance’ in any given community and seeking to address this through policy terms may be undesirable, as the market has a role in deciding upon relevant concentrations of properties in any given area. It is considered that HMOs can be considered to be a special case for two reasons.
- 3.23 Firstly, the Council has an understanding of the concentrations of students living in HMOs within any defined postcode area. There are a number of areas in Durham City where student populations in HMOs are close to all of the properties within an area. It is acknowledged that this has changed the character of the area over time. It is considered that any area with an over dominance of one type of accommodation may not represent a sustainable, inclusive and mixed community.

- 3.24 Consideration can be given to the proportion of HMOs that can be accommodated within a given community, whilst still ensuring that the community remains 'balanced'. For instance, a lot of local authorities use a threshold figure stating that permission will not be granted for change of use if the concentration of existing HMOs is above a certain percentage of the total dwelling stock in a defined area. The issue of how to define the threshold has been considered by a number of local authorities but most of them use work done by the National HMO Lobby.
- 3.25 The Lobby is a network of local community associations trying to redress the perceived impact on their communities of concentrations of shared houses or houses in multiple occupation (HMOs). The Lobby published a paper (National HMO Lobby 'Balanced Communities & Studentification Problems and Solutions' (2008) which examines what is meant by 'community' and then considers 'balanced communities'. It states the key problem identified by the members of the Lobby is demographic imbalance in their neighbourhoods, which leads to rising problems and declining community...to unsustainability.
- 3.26 The Lobby proposes that a balanced community is a community which approximates national demographic norms. It states that a number of points must be made.
- First of all, this definition is not *prescriptive*: it is not intended to specify that all communities should match these norms (rather, it provides guidance to those communities who feel that they have become imbalanced).
  - Secondly, it is *descriptive*: that is, it is based on the norms as they are, here and now (they were different in the past and will change in the future, they are different in other countries) – the point being that they reflect contemporary experience.
  - Thirdly, the reference is to *approximations*, not tight criteria.
  - Finally, the definition is *variable* – different norms will be relevant in different circumstances.
- 3.27 The Lobby looks at Census data (2001) and the Survey of English Housing to consider what is meant by the norm. Allowing for a certain deviation from the norm, the Lobby's particular criteria for a balanced community are (a) not less than 60% families, (b) not more than 33% one person households, and (c) not more than 10% HMOs.
- 3.28 There is discussion about how large the area covered should be and says that there are a range of possibilities. (a) Street or block [Glasgow], (b) Neighbourhood comprising several streets [Loughborough], or (c) Community comprising several neighbourhoods [Leeds]. The Lobby does not suggest a preference.
- 3.29 The tipping-point is the threshold at which a deviation departs so far from the norm that a community tips from balance to un-balance. With regard to HMOs, the Lobby says the tipping-point can be expressed in terms both of population (20%) and of properties (10%).

(1) The HMO tipping-point occurs *when HMO occupants exceed 20% of the population*. Normally, HMO occupants account for about 15% of the

population – the tipping-point represents a 33% deviation. It also significantly exceeds the whole of the ‘young adult’ band of the population (16-29 year-olds are 17.5%). (Any community begins to seem unbalanced when any of the five main age-bands exceeds one-in-five of the population.)

(2) The HMO tipping-point also occurs *when HMOs exceed 10% of the properties*. Normally, HMOs account for 7% of households – the tipping-point represents a 50% deviation. At the same time, given the comparatively large numbers in HMO households, if HMOs are 10% of households, then their occupants account for about 20% of the whole population (depending on the local balance of families and one-person households).

The most common cause of a tipping-point for HMOs is demand by students for shared houses - or studentification.

- 3.30 The National HMO Lobby's analysis is criticised by the Residential Landlords Association:

<http://www.cabinet.leicester.gov.uk/mgConvert2PDF.aspx?ID=59914>

The RLA dispute it and say, *“Various percentage figures are put forward often – 10 per cent, 15 per cent, or 20 per cent – which, again, is convenient to the campaigners’ case. How can campaigners truly say that a ‘community’ (whatever that may mean) begins to feel unbalanced when any of the five main age bands exceed a particular percentage of the population, or because of different tenure ratios? What evidence is there for this assertion other than it suits someone’s case?”*

*In Headingley, campaigners suggested that the HMO tipping point would occur when HMOs exceed 10 per cent. In reality, this is a self-serving argument with no known basis other than campaigners’ personal views, simply because they do not like living in student communities.*

*We would urge local councillors and officials to be wary of these kind of pseudo social scientific arguments which are put forward to justify restrictions; particularly as, legally, local authorities must not look at the character of the occupant – instead they have to consider small HMOs of all kinds irrespective of who lives in them.”*

- 3.31 On balance, it is considered that there is merit in the proposition that a community can become unbalanced by a dominance of HMOs. The proportion at which a tipping point is defined or even the point at which it is considered that such concentrations are to the detriment of housing stock would be a matter for Policy and decision making.

- 3.32 Secondly, HMOs in Durham City are predominantly occupied by students. This can impact upon the community in two ways. Firstly, outside of term time the properties are often vacant. This can have an impact upon the wider community and an impact upon the character of the area in that properties remain empty over a period of time. Secondly, student populations tend to be more transient in nature living in properties on a year to year basis. This can

have an impact upon residents living in an area for longer durations in terms of its impact upon community cohesion and integration.

- 3.33 Therefore, if it is accepted that a community can become imbalanced as a result of concentrations of HMOs, then in line with paragraph 200 of NPPF this would form the basis of the justification for an Article 4 Direction in relation to need to protect the wellbeing of an area.

*iii. Representations and discussions at the Examination in Public on the County Durham Plan on Policy 32 – Student Accommodation*

- 3.34 The County Durham Plan was subject to Examination in Public in October – November 2014. At the Examination, a number resident groups and others sought the introduction of an Article 4 Direction within Durham City<sup>13</sup>. This demonstrated that there was considerable support for an Article 4 from local residents associations and related bodies. As an outcome from the Examination the Council provided an undertaking to revisit the evidence for an Article 4. Whilst any Article 4 Direction would be subject to consultation, this considerable support has in itself formed part of the justification for re considering the appropriateness of an article 4 in terms of its impact on protecting the wellbeing of an area.

**Bringing together the evidence**

- 3.35 From giving consideration to the areas as set out above, it is considered that the case for an Article 4 Direction can be made in principle. It is important to note that it is considered that the evidence is finally balanced. In respect of the evidence presented across a range of issues, it is noted that in many circumstances HMOs do not seem to have a disproportionate impact upon the issues. However, conversely, where there are impacts then the Article 4 would be of benefit in reducing future concentrations of HMOs where issues may occur.
- 3.36 With regard to the aim of securing mixed and balanced communities it is recognised that concentrations of HMOs can be a cause of issues for the wider community and can change the character of an area over time. It is therefore considered that in practice an Article 4 would serve to support the wellbeing of an area.
- 3.37 Finally, the views of those representing residents groups at the Examination in public is factored into the assessment of an Article 4, and whilst this will be given further consideration by the way of a formal consultation, it is recognised that a proportion of Durham City residents consider that an Article 4 would be of benefit.
- 3.38 Taking account of these considerations, it is considered that a case can be made for the introduction of an Article 4 Direction. However, in considering the

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<sup>13</sup> County Durham Plan Examination in Public note of hearing: [Matter 13 Part 2](#)

potential impact of an Article 4 direction it has to be borne in mind that it would not apply retrospectively.

### **Defining the area of an Article 4 Direction**

- 3.39 If an Article 4 Direction was considered appropriate for the City a key question that would need to be considered is what area it should cover. Some local authorities make city wide Directions; others look at the proportion of HMOs in a particular area and consider making Directions that cover a ward. It is also possible to make a Direction that covers a number of streets. As set out in paragraph 2.5 of this report, the greatest concentrations of HMOs are in Durham City although it is acknowledged that there are HMOs and student accommodation in other parts of the County.
- 3.40 In giving consideration to the area for the Article 4 Direction, Direction there is recognition that there may be implication and potentially unintended consequences depending upon where the boundary is drawn. These matters are explored in the following paragraphs.
- 3.41 For instance, in deciding on an area for an Article 4 direction, it is understood that in some circumstances, landlords in an area covered by an Article 4 Direction may decide not rent properties to families as the use can't be 'flipped' back to an HMO. The potential inflexibility of an Article 4 direction for landlords can therefore potentially have the unintended consequence of limiting family occupancies within the Article 4 area.
- 3.42 In addition, there are areas of Durham City which do not have a high concentration of HMOs. It may be that an effect of an Article 4 Direction is to push new HMOs out from the high concentration areas to lower concentration areas. Whilst this may serve to support mixed and balanced communities, in some instances this has had the effect of increasing car usage as students have further to travel to the university. Given the scale of Durham City, this is less likely to be an issue
- 3.43 As within any geographical based area of control, an Article 4 Direction may serve to displace HMOs to adjacent areas, and further Article 4 Directions may not be capable of being applied quickly enough. An outcome of this could be that councils are tempted to apply controls across their whole area from the start. Possible displacement to other areas will lead to less flexibility in housing markets in those areas, since it is generally assumed that flexible use will increase the value of C4 properties. Landlords may buy up small family housing stock to rent out in cheaper areas. This could be exacerbated by housing benefit changes which might lead to an influx of residents looking for cheap accommodation.
- 3.44 An Article 4 Direction consultation which will take 12 months, may lead to an unmanaged rush of HMO-related development contrary to community wishes ahead of Article 4 Directions being made, and that once they are in place, HMOs would simply move to the nearest non Article 4 area within the City or surrounding area



- 3.45 One consequence of making an Article 4 Direction can be that in areas of high concentrations of HMOs, owner occupiers wanting to move have difficulty selling their property. This is because a family may not want to buy the property because of the nearby HMOs and a landlord may not want to buy because, due to the Article 4 Direction, it can't be converted to an HMO. The owner occupier can end up being trapped, or with a property that takes a long time to sell, or may have to accept a reduction in the price.
- 3.46 Some local authorities deal with this by having an exceptions policy stating that in areas where there is already an exceptionally high proportion of HMOs, consideration will be given to permitting further conversions. Another solution is to exclude areas of high concentrations of HMOs from an Article 4 Direction – in other words to aim the effect of the Direction on those areas where the concentration of HMOs is currently low. This will only have an effect on an area in the future, as an Article 4 Direction has no impact on the existing HMOs.

### **The proposed Durham City Article 4 Area**

- 3.47 It is proposed that the area to be covered by an Article 4 Direction would be the area defined by the Durham City Conservation area with the addition of the areas south of the A690 and Broomside Lane, north of Sunderland Road, west of Dragon Lane and north of Sherburn Road. The Article 4 Direction area would also differ from the conservation area to the west, where it would include the area west of Newcastle Road, bordered by the East Coast Mainline, Broom Lane, Neville's Cross Bank, Lowes Barn Bank and Potters Bank.
- 3.48 The intention is that the Article 4 Direction covers the parts of Durham City considered to be most desirable by students taking into account availability of facilities and distance from the University. It is these areas where it is considered that the concentrations of HMOs affect the wellbeing of the area. It should be noted that the boundary does not cover all of the built up elements of Durham City. Residential areas where there are lower concentrations of HMOs would be excluded from the Article 4 area.

### **Consultation and objections**

- 3.49 During the process of making an Article 4 Direction there has to be consultation for a period of six weeks. The representations are then considered and a decision is made as to whether to proceed with the Article 4 Direction. Following the consultation, the comments made will have to be carefully considered.
- 3.50 As examples Sunderland City Council note that they received two responses in support of their Article 4 Direction and no written responses opposing it. They did receive a phone call from a landlord who wanted be able to

interchange between the C3/C4 Uses without the need for planning permission.

- 3.51 Manchester City Council record that ten people / organisations made representations, of which six were in support of the Direction and three were objecting /raising concerns. One comment did not express support for or objection to the Article 4 Direction but wanted clarification. In the Council Confirmation of Article 4 Direction report, Manchester note 7 points raised by those supporting the Direction and 8 by those opposing

### **Case Study**

Manchester Delegated Powers Report – Confirmation of Article 4 Direction – 17 January 2011

Ten people/organisations made representations, of which six were in support on the Direction and three were objecting/raising concerns. One comment did not express support for or objection to the Article 4 but asked for clarification on certain points.

#### Supporting representations

People and organisations who supported the Article 4 Direction felt that high concentrations of HMOs caused problems in neighbourhoods, including:-

1. High concentrations of HMOs cause imbalance in communities demographically which changes the nature of these areas in terms of the facilities offered.
2. As the character of these areas is eroded long terms residents have left, to be replaced by a transient adult population.
3. The amount of housing suitable and available for families has been reduced as owner occupation levels fall.
4. Environmental problems associated with HMOs themselves as they are often grossly expanded and frequently neglected: for example refuse in gardens, overflowing bins, 'to let' signs.
5. Anti-social behaviour such as late night noise from individual houses as well as from bars and clubs.
6. Increased crime.
7. There should be an outright moratorium on HMO formation in specific areas.

#### Objecting representations

Organisations which objected to the introduction of an Article 4 Direction or had concerns about the potential impact of a Direction once it comes into effect raised the following issues:

- A. A citywide Article 4 Direction is not justifiable or necessary: problems associated with high concentrations of HMOs are confined to a few streets only and do not overlap significantly with the non-student population.
- B. Other parts of Manchester suffer from more serious forms of anti-social behaviour and they do not have high concentrations of HMOs.
- C. Identified areas with high concentrations of HMOs should be exempt from any restrictive policies and identified as a student community'.

- D. Introduction of an Article 4 Direction is contrary to the government's objective to remove unnecessary planning applications from the system.
- E. The evidence used to justify the Article 4 Direction relates to issues such as anti-social behaviour etc which are not planning considerations.
- F. Object to the negative assumptions made about occupants of HMOs, particularly students. The universities are a key driver for the economy in Manchester and their efficient operation should not be undermined.
- G. Concerns about the unintended negative consequences once an Article 4 Direction comes into effect such as rental increases which could affect student numbers and the need for a rigorous enforcement regime.
- H. The Council needs to make it clear that the Article 4 Direction can be amended quickly in response to strategically important developments as they arise.

In response to the representations, it was noted that the number in support is greater than the number against and that this provided the basis for the justification of the Article 4 Direction. .

## 4.0 Regulation 7 Direction

### Introduction

- 4.1 The amount of lettings boards in certain areas around the City have caused some people concern over the years. As a result, after consultation since 2010 in the Conservation area of Durham City, the council has issued a Voluntary Code of Conduct. The requirements of the Code for the display of adverts promoting Student Lettings within Durham city area are as follows:
- No more than two boards from a single agent being displayed in a street
  - No multiple boards on a single property
  - No To-let boards being displayed when a window notice is displayed advising the property is let
  - No boards displayed prior to 1st Nov or after 31st Jan
  - No Boards displaying 'let-by' after the 14 days permitted after completion of the let.
  - All Boards should relate to the property on which they are displayed
  - No generic adverts being displayed in the guise of a to-let board
- 4.2 There will always be some boards visible as the lettings agencies are businesses and need to advertise. There will never be a situation where there are no boards. The Code also only applies to lettings boards and not sale boards. Neither the Code nor legislation applies to boards placed inside windows.
- 4.3 The Code of Conduct is working. Two estate agents are not complying fully but have reduced the number of boards they display. There is photographic evidence of the reduction in boards that has happened over the period the Code has been in place.
- 4.4 The legislation<sup>14</sup> states that boards must be taken down 14 days after the tenancy has been created but it is difficult for the Council to show exactly when the contract was exchanged. Some properties take longer to let than others meaning the boards are up for longer. These properties are often owned by landlords who don't live in the area and perhaps take less care of the properties making them less desirable to tenants.
- 4.5 There has been an increase in the number of lettings companies. Some of these companies are subsidiaries or linked to existing lettings companies. These new companies are sticking to the rules but the overall effect is a small increase in the number of boards.
- 4.6 Landlords should not be displaying boards if the dwelling has been fully let. However the Council is aware that some landlords, for example, with a six-bed property may let five of the six rooms leaving the sixth vacant thus theoretically still needing a lettings board on the outside of the property.

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<sup>14</sup> The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 SI No. 783

## The Legislation

- 4.7 The Town and Country Planning (Control of Advertisements) Regulations 2007 specify a number of cases where boards are given consent automatically (Deemed Consent) and therefore can be displayed without Express Consent from the local planning authority.
- 4.8 If any of the conditions for Deemed Consent are not satisfied, then the display requires Express Consent from the Council.
- 4.9 In cases where boards displayed with Deemed Consent are detracting seriously from the character or appearance of buildings or streets or cause serious injury to the general amenity of an area, the Secretary of State can issue a Direction (under Regulation 7 of the 2007 Regulations) cancelling Deemed Consent rights in the area(s) specified in the Direction. Therefore the display of all 'To Let', 'For Sale' and similar boards needs Express Consent from the Local Planning Authority.

## Options / Issues

- 4.10 The voluntary code has had an effect in Durham City reducing the number of boards put up by landlords or agents. Implementation of a Regulation 7 Direction would have implication in terms of staff time available for enforcement and prioritisation of enforcement issues. Should a student housing licensing or accreditation scheme be introduced, then conditions could be added to cover the use of letting boards.

## Next steps

- 4.11 Statistical analysis shows that in 2009 there were 869 boards displayed in 2009 and 345 in 2015. The number of complaints have reduced from 99 in 2009 to 8 in 2015 (June). This is against a background of an increase in the number of agents from 13 to 23 in six years. It is therefore considered that the voluntary code has had a positive effect in Durham City. On this basis it is not considered that a Regulation 7 Direction is required at the current time although this will be kept under review.

### Case Studies

An article in Planning Resource<sup>15</sup> published on 19 September 2014 looked at the experience Newcastle had introducing a Regulation 7 Direction and compared it with Leeds who introduced a Direction in 2006. In Newcastle consultations on the direction option began in 2011. The council formed a stakeholder group early on, involving residents, councillors, landlords and agents. It undertook surveys in March and September 2012 and in January 2014 to ascertain the number and density of boards displayed across the proposed area. The findings, with supporting photographs, were used to compile an updated evidence report in April 2014.

<sup>15</sup> <http://www.planningresource.co.uk/article/1312800/-extending-control-regime-letting-boards>

The initial request for ministerial approval of the direction, submitted in July 2013, prompted three objections. The secretary of state requested a public hearing, which took place May 2014. The council was informed that the application had been successful in August.

The council consulted on three options: continuing with a voluntary ban; introducing restrictions on size and position; or a ban on all boards without express consent. There was a general consensus in favour of a complete ban, not only among residents but also lettings businesses, who felt this would provide a level playing field.

Other cities have successfully applied for a regulation 7 direction but it is thought Newcastle may be the first big city to be granted a complete ban over such a large area.

The article compared the experience in Leeds. Leeds City Council first introduced a Regulation 7 Direction in 2006 in Headingley, Hyde Park and Woodhouse in response to high concentrations of letting boards. Rather than imposing a blanket ban, the council allows boards to be displayed where they comply with a locally agreed code. The council also operates a voluntary code in adjacent areas, enforced mainly by community groups and landlord associations.

In the view of Leeds Council the timescale taken to gain approval of the Direction in Newcastle was typical. For example building consensus between stakeholders is a crucial part of the process and requires a long lead-in time. Eight years after the Leeds direction procedure came in, the consensus among stakeholders is that it has been a success. However, it has not been without difficulties. Preparing the direction and enforcing the code has placed considerable pressure on resources.

In Leeds community expectations now have to be managed with a view to potential expansion of the area covered, despite widespread support among stakeholders. Some landlords and agents try to circumvent the direction, for example by displaying posters in windows. This frustrates residents and landlords who do abide by the code.

## 5.0 Additional Licensing Scheme

### Introduction

- 5.1 Local authorities already have to license HMOs that are over three storeys as part of the mandatory licensing scheme.
- 5.2 The Housing Act 2004 Part 2 provides councils with the powers to introduce licensing of privately HMOs in specific areas. Additional licensing schemes are no longer subject to Government approval, but can only be enacted where there is sufficient evidence to support them. Section 56 of the Housing Act 2004 gives powers to local housing authorities to designate areas, or the whole of the area, within their district, as subject to additional licensing in respect of some or all of the HMOs in its area that are not already subject to mandatory licensing.

### The Legislation

- 5.3 Before making an additional HMO licensing designation for a particular type of HMO, or for a particular area, a local authority must:
- Consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public
  - Have regard to any information regarding the extent to which any codes of practice approved under section 233 have been complied with by persons managing HMOs in the area in question
  - Consider whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question
  - Ensure that the exercise of the power is consistent with its overall housing strategy
  - Seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector, both as regards combining additional licensing with other courses of action available to them, and as regards combining such licensing with measures taken by other persons
  - Consider that making the designation will significantly assist them to deal with the problem or problems (whether or not they take any other course of action as well)
  - Consult persons likely to be affected by the designation and consider any representations made in accordance with the consultation and not withdrawn.
- 5.4 In the Housing Act “anti-social behaviour” means conduct on the part of occupiers of, or visitors to, residential premises which causes or is likely to cause a nuisance or annoyance to persons residing, visiting or otherwise

## Property Condition

- 5.5 Durham County Council commissioned BRE to carry out a feasibility study to establish whether there is sufficient evidence to consider introducing an Additional HMO Licensing scheme and to identify the key barriers to introducing it or making it work in practice. This involved assessing
- the efficacy of management of the non-licensed HMOs
  - the physical condition of the HMOs
  - the physical condition of the area and environment
  - the incidence and severity of crime and anti-social behaviour in this area and other areas of Durham County Council
  - the opinions and ideas of landlords who own the HMOs and those owning other tenanted property
  - the opinions of other owners in the area
  - the opinions of residents and occupiers
  - the opinions of partner organisations.

- 5.6 The report identifies a number of perceived problems that were raised by stakeholders:
- The condition of HMOs
  - Lack of regulation and enforcement
  - Refuse
  - Advertising
  - Anti-social behaviour
  - Communication
  - Lack of sustainable communities

These issues were considered throughout the report.

- 5.7 In preparation for the BRE report 'The need for Additional HMO licensing and Article 4 Direction in Durham City: a feasibility study (August 2012), external surveys were carried out on 619 properties (55 licensed HMOs, 303 unlicensed HMOs, 248 non-HMOs, and 13 other HMOs). These collected information on the external condition of the buildings themselves and on the surrounding area. A detailed internal survey of 120 unlicensed HMOs focused on internal property condition and asked the students occupiers for their views.
- 5.8 The survey found that HMOs are more likely than non-HMO properties to have problems with the exterior repair of the building or appearance/management of the exterior and curtilage. The overall level of these problems is similar in licensed and unlicensed HMOs, although unlicensed HMOs built before 1920 were more likely to have significant problems with the external building fabric than licensed HMOs of the same age.
- 5.9 The full survey of 120 unlicensed HMOs undertaken by DCC staff for the BRE report provided some useful and objective information on conditions in these



properties. Most of these (69%) were two-storey houses, 29% had three storeys and 21% were flats. Only six properties had any rooms located in a basement. The overall internal condition was scored as fairly poor in about 10% of cases. The incidence of HHSRS Category 1 or actionable (band D or E) Category 2 hazards was significantly less than the national average for all private rented accommodation. The most common hazards related to falls on stairs, damp and mould, and fire. However, the incidence of HHSRS hazards that required action (including those related to fire) was lower than the average for private rented housing in England as a whole.

5.10 Percentage of HMOs with actionable HHSRS hazards (n=120)

Hazard Percentage of Category 1 or high 2 hazards

Damp and mould	4.2%
Crowding and space	0.8%
Falls on the level 0	0.8%
Falls between levels	3.3%
Cold	0.8%
Entry by intruders	0.8%
Falls on stairs	6.7%
Fire hazard	4.2%
Other	5.8%

5.11 The surveyors made a detailed assessment of how far the fire detection measures met those specified in the council's own standard. The survey found that 65% of dwellings had a least one bedroom that lacked adequate measures. Some 57% lacked adequate measures in kitchens, 54% in living rooms and 14% in circulation space. Over half (55%) of surveyed dwellings required a fire door to be fitted to the kitchen, a further 40% required one to be fitted to the living room and 30% required fire doors fitting to at least one bedroom. However, this needs to be put into the context that less than 5% of dwellings surveyed presented a fire safety hazard that should have been actionable under HHSRS.

5.12 A minority of dwellings had problems with heating and ventilation. Overall, the surveyors assessed that only three dwellings had insufficient heating in the living room and four had insufficient heating in one or more bedrooms. However, in 10% of these 120 dwellings, students reported that they had problems with the heating and in 7% that there was not enough hot water. Surveyors assessed that 13% had insufficient ventilation in the bathroom and 7% had insufficient ventilation in the living room. Over 20% had insufficient electric sockets in at least one bedroom and 11% had insufficient sockets in the kitchen.

5.13 Disrepair to the floors or internal walls was only apparent in one of the surveyed dwellings, but dampness was much more common. Some 22% had damp problems in the bathroom and 8% in the kitchen. Only 4% of dwellings had problems with cleanliness in the bathroom and 3% had such problems in the kitchen. However, 19% had some blocked drains at the time of survey and 38% did not have sufficient drying facilities.

- 5.14 DCC's own standard specifies that every bedroom occupied by a student should be a minimum of 6.5m<sup>2</sup> in area. However, the survey found that 32 of the 120 HMOs surveyed (26%) had at least one bedroom below this minimum size. In 14% of the surveyed properties, students felt that overcrowding was a problem.
- 5.15 The internal survey of unlicensed HMOs involved the surveyors assessing the overall interior management of the property as well as noting whether specific items were present. Overall, interior management was rated as good in 21% of these properties and fairly good in 40%. Overall 10% were assessed as fairly poor in this respect with the remainder rated as neither good nor poor. Only 43% had the landlord contact details or gas safety certificate displayed and less than two thirds (63%) had adequate clothes drying facilities. Some 95% were assessed as having sufficient refuse storage inside and 93% having sufficient refuse storage outside. The surveyors also rated other aspects of management on a 5-point scale ranging from 'no problems' to 'significant problems'. The least problematic aspects related to provision of sufficient hot water, electrical supply and hall lighting. The aspects most likely to be problematic related to fire safety; 41% were assessed as having significant problems with respect to evidence of smoke alarm checks and 8% with other maintenance of means of escape.
- 5.16 The survey also examined the external condition of these properties and of other non-HMO properties in Durham to assess whether there were any significant differences in the condition of HMOs and non-HMOs. The survey assessed structural issues (condition of chimney stack(s), roof structure/roof covering, foul drainage, rainwater goods, wall structure/wall surface, windows, doors and paths/yards) and management factors (condition of gardens, the overall decorative state, the existence of long-term or short-term rubbish/refuse provision and whether vandalism/graffiti are present). HMOs were found to be significantly more likely ( $p < 0.001$ ) to have problems relating to the building structure and management issues than non-HMOs. However, it is important to note that very few HMOs were observed to have major disrepair or major management issues.
- 5.17 The focus groups formed by the BRE researchers and consultation questionnaires sent out by them, showed that the different groups varied in their perceptions about the condition of HMOs in Durham. Overall, 15% of those who responded to the questionnaire felt that poor maintenance of privately-rented houses/flats was a significant problem and 13% felt that it was a problem. However, this varied considerably by type of respondent – only 2% of landlords regarded this as a significant problem, compared with 16% of students living in HMOs and 28% of owneroccupiers.

### **Councils Environmental Protection Team**

- 5.18 The Council's Environmental Protection team deal with complaints and advice requests in relation to HMOs. As stated previously these issues are recorded on the Civica record management system which has been in place since

2011. The categories of requests in relation to HMOs, together with the number dealt with from 2011 to 23 December 2014, are listed below:

Request for advice	144
Poor Management	93
Other	56
Disrepair	25
Unlicensed property	17
Not to standards	11
Means of escape	2
TOTAL	348

- 5.19 There are a number of enforcement actions that can be taken against landlords if officers have concerns about the management of HMOs. Since 2011, there have been no prosecutions or other enforcement actions taken. During this period, informal actions proved to be adequate to resolve all concerns. However officers from the Environmental Protection Team haven't found it necessary to go to that formal stage. If there is an issue it is reported to the landlord and the matter is put right and the case is closed.
- 5.20 The Report concluded that an additional licensing scheme would not address many of the problems. There are several other courses of action available to DCC to deal with the problems related to the properties themselves and any nuisance caused. The options include: developing a landlord Accreditation Scheme in conjunction with the University that complies with the Unipol code; using existing legislation and enforcement powers to tackle poor conditions and management standards; and reviewing and improving refuse and recycling facilities and services in Durham City

### **Further legislation**

- 5.21 A number of Statutory Instruments such as The Management of Houses in Multiple Occupation (England) Regulations 2006 (SI No 372) provide a regulatory framework for how HMOs should be managed. These apply to all HMOs whether licensed or not. The particular SI mentioned, sets out a duty on the manager of the property to provide information; to take safety measures; to maintain water supply and drainage; to supply and maintain gas and electricity; to maintain common parts, fixtures and fittings and appliances; to maintain living accommodation; and waste disposal facilities. There is also a duty to maintain the external parts of an HMO and certain duties imposed on the occupiers of HMOs.
- 5.22 In other words there is an existing legislative framework that imposes duties on the manager of an HMO (whether or not licensed), that cover a number of areas that objectors to HMOs and the perceived problems they bring raise as concerns.
- 5.23 A decision on whether to introduce an Additional Licensing Scheme is one for Neighbourhood Services, but the fact of the existing legislative framework and the fact that officers have not needed to issue a formal notice on an HMO

owner, is an indication that an Additional Licensing Scheme is unnecessary at this time.

### **Additional actions**

- 5.23 It is stated in paragraph 5.3 above, that before a local authority considers an additional licensing scheme, it should consider whether there are any actions it could take which it hasn't done which alleviate the problems raised. Arguably Durham County Council hasn't done this yet. As an example for the last two years the Council has been working with the University to develop a Landlord Accreditation Scheme. In order to avoid any doubt or confusion over responsibilities or liabilities for the operation of the scheme, it is the intention of the Council to take sole responsibility for the entire scheme operation. Durham University and Durham Students Union have both agreed to this change and remain supportive of the proposed aims and objectives of the scheme. Details are being finalised and it is hoped the scheme will begin in mid-2015. Such a scheme would need time to bed-in before it could be evaluated. The success, or failure, of the scheme would be taken into account in any re-evaluation of whether additional licensing should be introduced at any time in the future.

## 6.0 Summary of Conclusions and Recommendations

- 6.1 As has been mentioned previously none of the options (Article 4 Direction, Regulation 7 Direction and Additional Licensing Scheme), can be implemented quickly. They will take at least a year to introduce. Careful consideration will need to be given to whether there is sufficient evidence to introduce any of the options. In considering the evidence available in relation to crime, anti-social behaviour and impact upon residential amenity, it may be that there are unreported incidents, which cumulatively have a negative impact upon amenity. However this paper, as has been stated earlier, has been prepared using reported evidence rather than anecdotal evidence.
- 6.2. Government guidance<sup>16</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 HMOs, planning authorities can consider whether the exercise of permitted development rights would undermine local objectives to create or maintain mixed communities.
- 6.3 It is suggested that the evidence base in support of the introduction of 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 extent to which an Article 4 Direction has the potential to support sustainable inclusive and mixed communities and finally, consideration has been afforded to the representations made at the County Durham Plan Examination in Public. It is considered that ultimately priority should be given to the opportunity that an Article 4 Direction would provide to support the creation of stronger communities and an Article 4 would support this aim by assisting to develop a good mix of housing.
- 6.4. In some areas of Durham City, private rented shared housing makes up a significant proportion of the housing stock, which has led to the argument that communities are no longer mixed, and therefore not sustainable. Such housing is characterised by a younger, more transient population and this affects community stability. An Article 4 Direction will, where appropriate, restrain further shared housing by enabling planning control over smaller shared houses
- 6.5 This report has also given consideration to a Regulation 7 Direction and an Additional Licensing Scheme. However it is suggested that the evidence to date does not support the making of such things at the present. This situation will be reviewed periodically, but other actions and interventions such as a landlord accreditation scheme should be tried first and given time in order to assess their impact.

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<sup>16</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

## **7.0 Next Steps**

- 7.1 A report will be prepared setting out the case for an Article 4 Direction. In respect of a Regulation 7 Direction and an Additional Licensing Scheme, the situation will be monitored and separate reports may be prepared in the future.

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## **Appendix 1: Impact assessments**

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**Finance** – Should the ALS proceed, the overall cost to the Council associated with the introduction and administration of an ALS will be balanced by income generated through the application of an appropriate licence fee. Any financial implications arising from the final decision on ALS will be reported through the MTFP.

The introduction of a Regulation 7 Direction will not generate any further income for the Council and may incur further costs arising from dealing with any planning appeals or as a result of choices having to be made about the use of time and resources to enforce the Regulation as against other enforcement.

The introduction of an Article 4 Direction will not generate any further income for the Council and may incur further costs arising from dealing with any planning appeals.

**Staffing** – Within EHCP there is sufficient skilled and experienced staff to address the issues associated with HMO's in Durham City.

The introduction of an Article 4 Direction or Regulation 7 Direction would lead to an increase in officer workload resulting from having to process planning applications and deal with any appeals.

**Risk** – The legislative factors for the Council to consider in adopting an additional HMO licensing scheme have not been met. Should the Council decide to introduce such a scheme anyway, there is a significant business risk that it will face a legal challenge by way of a judicial review. This may also be considered to be the same in relation to the two possible Directions.

**Equality and Diversity / Public Sector Equality Duty** – the report is in line with the equality and diversity policies.

**Accommodation** – None

**Crime and Disorder** – effective management of HMOs is directly linked to a reduction in incidence of ASB

**Human Rights** – the report adheres to the Human Rights Act.

**Consultation** – the proposals for the introduction of additional HMO licensing have been subject to wide and detailed consultation. This is detailed in the BRE Report.

**Procurement** – the commissioning of the BRE study was subject to detailed discussions and agreement with the Corporate Procurement Manager. There are no further procurement issues.

**Disability Issues** – improvements in HMO housing conditions are directly related to improvements in quality of life for all occupiers and visitors of HMOs.

**Legal Implications** – the legal case for the introduction of an additional HMO licensing scheme has not been met.



## Appendix 2

# DURHAM CONSTABULARY

Architectural Liaison  
Partnerships Branch  
Police HQ, Aykley Heads  
Durham  
DH1 5TT

Tel: 0191 375 2175  
Fax: 0191 375 2170



3<sup>rd</sup> June 2014

Your Ref DM/14/01196/FPA

Dear Sir/Madam,

**Proposal: 109 Bed Student Accommodation, The Durham Light Infantryman, 110 Gilesgate, Durham**

The following comments are based on the principles of Crime Prevention through Environmental Design (CPTED) and are intended to help create a secure and safe environment.

The crime risk assessment for this proposal is moderate as students are often targeted for crime, as they are seen as young and vulnerable, often living away from home for the first time.

It would be prudent if a reasonable level of security, such as that outlined in Secured by Design, was built into the scheme; full details of which can be found at [www.securedbydesign.com](http://www.securedbydesign.com) or by contacting me direct.

Could consideration be given to a landscaping regime to screen the new development from the pensioner's bungalows at the rear?

The theft of pedal cycles is also an issue around students; it would be an advantage if secure cycle storage is provided.

Yours faithfully,

Steven Drabik  
*Architectural Liaison Officer*

We are very keen to ensure we are tackling issues which matter to you in your community, with our colleagues in the Local Authority we have developed PACT meetings (Police And Community Together) to ensure you have a chance to engage with local officers and tell us your concerns. It is your opportunity to influence what we focus on where you live.

You can find out more about PACT by ringing Durham Constabulary on 101 or logging onto [www.durham.police.uk](http://www.durham.police.uk)

Follow us on Twitter and Facebook

**NOT PROTECTIVELY MARKED**

## General Regulation XI - Motor Vehicles and Pedal Cycles

*(Durham is a comparatively small city and the parking and garaging facilities which it offers are limited. The proportion of students to the total population is exceptionally high and the streets, for the most part, are exceptionally narrow. The University has neither the space nor the finance to enable it to make adequate provision for parking or garaging facilities for more than a very small proportion of students and staff. University policy is therefore to strongly discourage unnecessary usage of motor vehicles by students within the city, and to work towards restricting student parking to those students who exceptionally are required to have access to their own vehicle as part of their academic programme.)*

\*1. A student who keeps or uses a motor vehicle in Durham City must conform with the regulations for the parking of vehicles on University or College property which may be issued from time to time by the appropriate authorities.

\*2. No student may leave a motor vehicle overnight on Palace Green or any other University or College car park without written permission from the appropriate University or College authority. It should be noted that limitations of space will normally make it impossible for the appropriate authorities to grant such permission except in a very small number of cases.

3. Every student of the University who lives within the designated area of Durham City and who keeps or causes to be kept for his/her use, any motor vehicle must obtain a University Motor Licence issued on the authority of the Deputy Warden on the written recommendation of the Head of their College or a duly appointed deputy.

a) To be eligible for the granting of a licence, a student must be:

i) A graduate living in College, or

ii) An undergraduate living in College accommodation who has exceptional individual special needs such as medical need or need related to academic work, or

iii) An undergraduate living in College who will use the vehicle for the agreed purposes of a University Department, or a University or College club or society.

iv) A student living out of College provided that no more than two licences will be issued to a single residential address. The issue of a licence will be subject to any other parking restrictions operating in the area in which the car will be parked or garaged.

Please note: an undergraduate student in his/her first year of study will not normally be eligible for the granting of a licence except in circumstances covered in (ii) above.

b) Applications for a licence must indicate what parking or garaging facilities are intended which shall be to the satisfaction of the Pro-Vice-Chancellor and Deputy Warden.

c) An application for a licence must be made no later than seven days after the vehicle being brought into the designated area. Once granted, a licence shall be valid until the end of the current academic year.

d) The issue of a licence will be conditional on the person to whom it is issued being able to provide relevant documentation to the Deputy Warden, to include a current insurance policy document, vehicle registration (VIN) document and driver's licence.

e) The issue of a licence does not in itself constitute permission to park on any land controlled by the University for which a separate permit will be required. This includes Palace Green. Such permission will only be granted when a specific need is identified. Vehicles entering on to University property shall be subject to any additional regulations (eg wheel clamping) as are advertised from time to time.

f) Breaches of regulations may lead to the imposition by the relevant Head of College of fines not exceeding levels to be determined annually by Council for first and subsequent offences.

Note: The maximum fine for failing to licence your vehicle is £50 for a first offence and the maximum fine for any subsequent offence will be £100.

g) These regulations do not apply to the short-term hiring of motor vehicles or the receiving of driving instruction.

h) A student who intends to drive a group transport vehicle, or to tow a trailer as part of an activity organised through or by the University (including its Colleges, Departments and Student Organisations), must comply with relevant sections of the University Health and Safety Manual and meet the requirement for the Approval of Drivers.

i) For the purposes of the above sections:

i) The Deputy Warden may, on behalf of Council, appoint an appropriate person to administer and control the issuing of licences within these regulations.

ii) The "designated area of Durham City" will be defined from time to time and shall be specified areas within a 5-mile radius of Durham Cathedral, within which the Deputy Warden, in consultation with the President of Durham Students' Union, deems it convenient to travel on foot or by public transport.

iii) Land controlled by the University and University property will be taken here to include land and property owned by the Recognised Colleges of St Chad's and St John's.

4. Interference with any barrier, bollard or sign on University property relating to the control of vehicle parking, or damage thereto, will be regarded as a breach of these regulations.

5.

(a) Breaches of regulations may lead to the imposition by the appropriate University authority of fines not exceeding levels to be determined annually by Council for first and any subsequent offences.

(b) With respect to breaches of these regulations occurring on University property, such fines may be imposed before a wheel clamp is removed from the vehicle whose driver has not observed the University's parking regulations. Permission to bring a motor vehicle on to University or College property at any time may also be withdrawn temporarily or permanently.

Note: The maximum fine for a first offence other than a Residential Vehicle Licensing Offence will be £50 and the maximum fine for any subsequent offence will be £100.

6. Cycles brought onto University property must not be left in a position where they are likely to create a hazard, obstruct other vehicles or pedestrians, or access to buildings; nor must they be taken inside any University building. In the event of a breach of this regulation the University reserves the right to remove the offending cycle (including removal of any locking device) and to impose a fine not exceeding a level to be determined annually by Council upon the owner before he or she is again allowed to take possession of the cycle.

Note: The maximum fine will be £50.

7. For the purpose of the above sections "the appropriate authorities" shall be as prescribed from time to time by Council. Until further notice they shall be as follows:-

(a) For all College property: the Head of College concerned, or a duly appointed deputy.

(b) For all other University property: the Director of Estates and Buildings or his/her Deputy.

The above authorities may from time to time prescribe such additional regulations as they shall see fit for the control or the use or parking of motor vehicles in the areas for which they are responsible.

(c) In other cases: the City Liaison Officer or, in his or her absence, a Pro-Vice-Chancellor.

\*Separate regulations on motor vehicles and pedal cycles apply to students at the Queen's Campus, Stockton.

## Appendix 4 - Detailed Student Population Projections – University

University Summary		2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	
		Total	Total	Total	Total	Total	Total	
Durham	UG Freshers	Number	3,369	3,360	3,380	3,395	3,399	3,400
		Beds Taken*	3,291	3,282	3,302	3,316	3,320	3,321
		% College Accomodation	55%	55%	55%	55%	55%	55%
		% Accomodated	98%	98%	98%	98%	98%	98%
	UG Returners	Number	6,779	6,954	6,974	7,001	6,961	6,981
		Beds Taken	1,502	1,278	1,258	1,244	1,240	1,239
		% College Accomodation	25%	21%	21%	21%	21%	21%
		% Accomodated	22%	18%	18%	18%	18%	18%
	PGT	Number	2,129	2,067	2,092	2,114	2,133	2,141
		Beds Taken	1,256	1,156	1,156	1,156	1,156	1,156
		% College Accomodation	21%	19%	19%	19%	19%	19%
		% Accomodated	59%	56%	55%	55%	54%	54%
	PGR	Number	1,205	1,235	1,248	1,284	1,312	1,319
		Beds Taken	343	289	289	289	289	289
		% College Accomodation	6%	5%	5%	5%	5%	5%
		% Accomodated	28%	23%	23%	23%	22%	22%
	Total	Number	13,482	13,616	13,693	13,793	13,805	13,841
		Beds Taken	6,392	6,005	6,005	6,005	6,005	6,005
		(50% target)	6,741	6,808	6,847	6,897	6,903	6,921
		% Accomodated	47%	44%	44%	44%	43%	43%
Additional Beds Needed		7,090	7,611	7,688	7,788	7,800	7,836	
Queen's	UG Freshers	Number	777	729	729	729	729	729
		Beds Taken	663	622	622	622	622	622
		% College Accomodation	75%	70%	70%	70%	70%	70%
		% Accomodated	85%	85%	85%	85%	85%	85%
	UG Returners	Number	1,281	1,388	1,428	1,481	1,444	1,451
		Beds Taken	177	235	235	235	235	235
		% College Accomodation	20%	26%	26%	26%	26%	26%
		% Accomodated	14%	17%	16%	16%	16%	16%
	PGT	Number	13	63	83	103	103	103
		Beds Taken	8	30	30	30	30	30
		% College Accomodation	1%	3%	3%	3%	3%	3%
		% Accomodated	62%	48%	36%	29%	29%	29%
	PGR	Number	34	33	35	37	39	40
		Beds Taken	2					
		% College Accomodation	0%	0%	0%	0%	0%	0%
		% Accomodated	6%	0%	0%	0%	0%	0%
	Total	Number	2,105	2,213	2,275	2,350	2,315	2,323
		Beds Taken	850	887	887	887	887	887
		(50% target)	1,053	1,107	1,138	1,175	1,158	1,162
		% Accomodated	40%	40%	39%	38%	38%	38%
Additional Beds Needed		1,255	1,326	1,388	1,463	1,428	1,436	
University	UG Freshers	Number	4,146	4,089	4,109	4,124	4,128	4,129
		Beds Taken	3,954	3,904	3,924	3,938	3,942	3,943
		% College Accomodation	57%	57%	57%	57%	57%	57%
		% Accomodated	95%	95%	95%	96%	96%	96%
	UG Returners	Number	8,060	8,342	8,402	8,482	8,405	8,432
		Beds Taken	1,679	1,513	1,493	1,479	1,475	1,474
		% College Accomodation	24%	22%	22%	21%	21%	21%
		% Accomodated	21%	18%	18%	17%	18%	17%
	PGT	Number	2,142	2,130	2,175	2,217	2,236	2,244
		Beds Taken	1,264	1,186	1,186	1,186	1,186	1,186
		% College Accomodation	18%	17%	17%	17%	17%	17%
		% Accomodated	59%	56%	55%	53%	53%	53%
	PGR	Number	1,239	1,268	1,283	1,321	1,351	1,359
		Beds Taken	345	289	289	289	289	289
		% College Accomodation	5%	4%	4%	4%	4%	4%
		% Accomodated	28%	23%	23%	22%	21%	21%
	Total	Number	15,587	15,829	15,968	16,143	16,120	16,164
		Beds Taken	7,242	6,892	6,892	6,892	6,892	6,892
		(50% target)	7,794	7,914	7,984	8,072	8,060	8,082
		% College Accomodation	105%	100%	100%	100%	100%	100%
% Accomodated		46%	44%	43%	43%	43%	43%	
Additional Beds		8,345	8,937	9,076	9,251	9,228	9,272	