

**Flintshire County Council
Draft Interim Developer Advice Note**

Flats and Houses in Multiple Occupation

September 2018

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1. Introduction

- 1.1 Houses in Multiple Occupation (including self-contained flats where relevant) provide small, affordable, flexible and safe accommodation for a wide variety of people including single people, students, low paid and seasonal workers, those on short term contracts and are an essential part of the housing market. They can also offer temporary accommodation for people who are saving to purchase a home.
- 1.2 Houses that provide accommodation for at least 3 people who are not all members of the same family are known as ‘Houses in Multiple Occupation’ (HMOs). Whilst a small number of HMOs are purpose built, the overwhelming majority in Flintshire are created through the conversion of buildings, either currently residential or in other uses.
- 1.3 Poorly designed Flats and HMOs can lead to problems, both for the occupants and for neighbours, due to the large number of people living within relatively small places. These issues can include, noise, disturbance, loss of privacy and inadequate living accommodation. Similarly an over-concentration of HMOs, or those that are poorly located, can be detrimental to residential amenity and harm the character of an area.
- 1.4 Given the clear and growing trend for the development of HMOs in Flintshire, and particularly in certain locations such as Deeside, the Council has produced this Developer Guidance Note in order to advise prospective applicants about the requirements the Local Planning Authority (LPA) has for relevant information and evidence to be prepared and submitted in support of planning applications for HMOs, in order to properly consider applications.
- 1.5 This document sets out how the Council intends to manage the development of HMOs and will be used in the determination of any planning application for the development of these properties within Flintshire. Whilst not a policy document itself, this Developer Advice Note will be adopted by the Council once it has been consulted on, and will be a material consideration in the determination of such applications. Once the LDP is adopted, a supplementary Planning Guidance Note will be produced to support the interpretation and implementation of a specific HMO policy in the LDP.

2. Definitions

- 2.1 The definition of what constitutes an HMO primarily relies on legislation concerning the private rented sector i.e. Housing Act 2004. In simple terms, an HMO is defined as a property where occupants share one or more basic amenities (i.e. a toilet, personal washing facilities or cooking facilities), and is occupied by 3 or more people who do not form a single household and occupy the property as their only or main residence. There is also a requirement that rent is payable by at least one occupant of the property.
- 2.2 For planning purposes, HMOs are identified within the Town and Country Planning (Use Classes) Order 1987, as amended, as “*use of a dwelling house*”

by 3-6 residents as a “house in multiple occupation” (Use Class C4) or a large HMOs (more than 6 people sharing) (Sui Generis). HMOs are not defined within the Order, which instead relies upon the definition given within the Housing Act 2004.

- 2.3 Amendments made to the Town and Country Planning (Use Classes) Order 1987 in 2016, introduced a specific use class for HMOs (C4). This means that any changes from Class C3 to C4 would require planning permission. This change is specific to Wales as in England the same change of use is permitted development.

3. Policy Context and Background

National

- 3.1 Whilst the current version of Planning Policy Wales (PPW) (Edition 9, 2016) does not make specific reference to the development of HMOs, the Welsh Government have recognised that the over-development of HMOs in an area can have significant detrimental effects. Firstly it carried out extensive research in 2015 entitled ‘Houses in Multiple Occupation: Review and Evidence Gathering’ which whilst focussing on areas with significant concentrations of students, nevertheless acknowledged in a general sense that the concerns emanating from the number of HMOs in an area increase, once the concentration of such households exceeds a certain threshold (10%). The difficulty that arises from this is that given HMOs with less than 7 occupants do not currently need to be registered with the Council, it is difficult to identify where HMOs are. This is compounded by the fact that before 2016, the development of a small HMO was permitted development that did not require planning consent.
- 3.2 Changes to the Town and Country Planning (Use Classes) Order 1987, were made in 2016 where a new class C4 was introduced which was an HMO described as the use of a dwellinghouse by not more than 6 residents as a house of multiple occupation. This has resulted in the need for an application for a change of use to C4 to be submitted to the LPA.
- 3.3 More recently, the Cabinet Secretary for Energy, Planning and Rural Affairs wrote to all local authorities in February 2018 to ‘remind’ them of the powers they have to manage HMOs (see appendix 1). The letter clearly emphasises that the management of HMOs is a local issue where LPAs should make informed decisions on what is best for their area, and develop suitable and evidenced policy responses to help achieve this. PPW assists with this context also when it states in paragraph 3.1.4 that: *“The planning system does not exist to protect the private interests of one person against the activities of another. Proposals should be considered in terms of their effect on the amenity and existing use of land and buildings in the public interest. The Courts have ruled that the individual interest is an aspect of the public interest, and it is therefore valid to consider the effect of a proposal on the amenity of neighbouring properties. However, such consideration should be based on general principles, reflecting the wider public interest (for example a*

standard of “good neighbourliness”), rather than the concerns of the individual.”

Local

- 3.4 The adopted Flintshire Unitary Development Plan (UDP) is the formally adopted development plan for the County. Although the UDP became time expired at the end of 2015 it remains the adopted development plan for the County, whilst the Council’s Local Development Plan (LDP) is progressing through its statutory stages. Regard will need to be had to the UDP in the determination of applications for HMOs.
- 3.5 Whilst there is no specific policy in the UDP that deals directly with HMO’s, the plan should be read as a whole and the following policies are relevant to the consideration of HMO proposals (but there may also be others to consider):
- **STR1 New Development**
 - **STR4 Housing**
 - **GEN1 General Requirements for Development**
 - **GEN2 Development inside Settlement Boundaries**
 - **D1 Design Quality, Location and Layout**
 - **D2 Design**
 - **AC18 Parking Provision and New Development**
 - **HSG3 Housing on Unallocated Sites within Settlement Boundaries**
 - **S10 Conversion of Upper Floors**
- 3.6 **The main planning issues to consider with the majority of proposals for HMOs are the impact of the development on the character of the area with regard to the living conditions for neighbours, future occupiers, and parking provision.**

Structure of this Advice Note and Weight to Attach

- 3.7 The following guidance sets out the standards and requirements that applicants for HMOs are expected to adhere to, as well as the assessments required of the likely potential impacts of the development and how these can be mitigated. The note is structured in three main parts:
- **Part 1: Houses in Multiple Occupation** – this section broadly deals with the planning requirements for how an HMO should be designed to provide suitable accommodation for future occupiers and avoid impacts on the living conditions of neighbours;
 - **Part 2: Additional Standards and Requirements relating to Flats** – Flats are governed by the same requirements set out in Part 1, but also have some addition standards to meet such as room sizes;
 - **Part 3: Living Conditions of Neighbours and Character of an Area** – this section provides reasonable safeguards to ensure that the development of HMOs in an area can be managed to avoid negative impacts on neighbours and the areas character.

4. Part 1: Houses in Multiple Occupation

- 4.1 This section sets out how the Council intends to manage the provision of HMOs within the county so that that they represent a sustainable form of development and do not unacceptably impact on future occupiers, the amenity of neighbours, the inherent character of an area, and the ability to park. Please note that this section sets out **only the planning requirements**. It should not be assumed that the Housing Act standards, HMO management regulations and Mandatory HMO Licensing (if applicable) are also met. Applicants should contact the housing standards team (see Appendix B) to ensure any additional requirements are met.
- 4.2 An HMO can broadly be defined as: *A house occupied by unrelated individuals, some of whom share one or more of the basic amenities. Commonly shared amenities include: bathrooms, toilets, shower rooms, kitchens and living rooms.*
- 4.3 A building defined as a HMO may consist entirely of bedsit unit type accommodation (where some or all amenities are shared) or a combination of both bedsits and fully self-contained flats (see Part 2 for addition requirements relating to flats).

Amenity of Occupiers

- 4.4 **Room Sizes** - To ensure that Houses in Multiple Occupation are large enough to provide suitable accommodation for residents, the following minimum room size standards should be met:

Table 1: Single Room Bedsit (HMO) Accommodation¹ – Minimum internal room sizes

	Accommodation that has communal living room/lounge area	Accommodation that does not have access to a communal dining room or lounge area
Single room bedsit without kitchen facilities	10m²	15m²
Single room bedsit with integral kitchen facilities	13m²	19.5m²

¹ These figures assume there is only one occupant. Were a single room bedsit unit within a HMO is intended for two occupants then these standards should be increased by 25%. These areas exclude bathrooms, toilets or shower rooms.

- 4.5 A self-contained flat within a HMO must meet the standards set out in Part 2 of this note relating to flats.

4.6 It is recommended that all residents in HMO schemes have access to communal areas in which they can spend time to relax, socialise, eat meals etc. This is particularly important as residents will otherwise only have one room to spend the majority of their time. However, if the rooms provided are spacious (i.e. all bedsits meet the standards in the right-hand column above) then the Council recognises that communal rooms may not be required as residents will have sufficient private space. It is considered this provides a flexible approach that will allow applicants to best use the available accommodation.

4.7 **Multi Room Bedsit Accommodation** - A HMO bedsit unit will occasionally have more than one private room for the use of the occupier. These additional rooms should also meet minimum standards as set out below. The main room should meet the standards as set out above in table 1. Any additional room(s) must meet the standards below (table 2), depending on its function:

Table 2: Multi Room Bedsit (HMO) Accommodation – additional internal room sizes

Separate Bedroom	8.5m²
Living room	9m²
Combined living room/kitchen	11m²
Kitchen	5.5m²

4.8 **Shared Facilities** - Typically HMOs will share one or more key amenity, usually a kitchen, dining room, living room or bathroom. Shared bathrooms and kitchens should be no more than one floor up or down from the bedsit units that they are intended for. If bedsit accommodation is provided within a separate building or annex to the main building, these residents must have access to a suitably located bathroom and/or kitchen within that building. No resident will be expected to go outside or into another building, in order to access a bathroom or kitchen.

4.9 Shared facilities, where residents may be expected to socialise for a period of time, such as a communal lounge or dining room (essentially rooms that have seating), should be located to minimise the impact on bedrooms, both within the building and adjoining properties. These typically may be best located on the ground floor.

4.10 Table 3 below sets out the minimum size of the communal rooms if these are provided.

Table 3: HMO Shared Facilities Room Sizes

Separate Kitchen	7m²
Lounge or Dining Room	11m²
Multi use communal area (e.g. kitchen/dining room or kitchen/lounge)	14m²
Bathroom/wc	No set standard – however must have a suitable internal arrangement to allow residents to use the facilities safely without resulting in a slip / trip/ collision or entrapment hazard.

- 4.11 These standards should be increased depending upon the number of occupants they are intended to serve. An appropriate number of bathrooms and/or WCs should be provided in relation to the number of units sharing those facilities. Applicants are advised to speak to the Council’s Housing Standards Team at the earliest opportunity to ensure that sufficient amenities are provided for future tenants.

Outlook and Privacy

- 4.12 In HMOs each bedsit should have at least one window with a reasonable outlook and prospect. Similarly at least one window in communal habitable rooms should have a reasonable outlook and prospect. The LPA considers that a reasonable outlook comprises a minimum distance of 12 metres between a main window in a habitable room and a blank wall (or a wall with a window of a non-habitable room). To ensure privacy there should be a minimum distance of 21 metres between a main window in a habitable room and another window in a habitable room.
- 4.13 In many urban parts of Flintshire these standards may not be achievable. This may be particularly the case with conversions and infill development. In these instances the Council will consider the outlook and prospect of the accommodation as a whole, including communal habitable rooms. The Council will also consider the previous use of the rooms with a conversion schemes and determine whether the proposal will have any greater harm. Each case will be assessed on its merits.

Basement Accommodation

- 4.14 For basements, the Council will only grant planning permission where there is a reasonable outlook from windows in each bedsit and each habitable room within the basement. We will also only grant planning permission where there

is no known flood risk, or where flood risk has been managed to the satisfaction of both Natural Resources Wales (NRW) and the Council. In most cases basements are unlikely to be considered acceptable for conversion to HMO accommodation.

- 4.15 When considering whether there is a reasonable outlook from a window in a habitable room in a basement the Council will consider the function of the space to which it looks onto. For example it would not be considered appropriate if the window looks directly onto a bin storage area or an area for parking or directly onto the public highway or footway.
- 4.16 More generally, internal floor levels should not be more than 1 metre below the existing ground level from outside (it will not be acceptable to excavate land in order to provide a reasonable outlook). This is to prevent accommodation from being dark, gloomy and damp. Basements can be used for storage, laundry rooms, bicycles or other uses. This restriction on excavation to provide a reasonable outlook from a basement applies especially to 'heritage assets' as additional excavation can affect the character and appearance of the building.

Roof Space Accommodation

- 4.17 The same principles apply to roof space accommodation as to other accommodation.
- 4.18 When calculating the floorspace of bedsits and communal rooms in a roof space, the Council will not include space that has a floor to ceiling height of below 1.5m. It is considered that these spaces would not provide useable accommodation. Applicants must identify on submitted plans the floorspace area that has a floor to ceiling height of 1.5m or more.
- 4.19 Roof lights that face the sky are not considered to provide a reasonable outlook and prospect.
- 4.20 Rooms within the roof need will need to be thermally insulated from excess cold or heat.
- 4.21 Developers should be aware that large numbers of roof lights can spoil the appearance of a building, especially where the building is a heritage asset, and such proposals are unlikely to be acceptable.

Outdoor Amenity Space

- 4.22 It is important that residents have access to an area of private outdoor amenity space. This is usually provided as a communal area that is available for all residents of the HMO to use. This space is intended to provide an area for residents for informal recreation, drying clothes and socialising.

4.23 The table below sets out the minimum requirement for amenity space for Houses in Multiple Occupation. These standards reflect that bedsits are almost always occupied by a single person and rarely will children live in them. The occupation level of a House in Multiple Occupation may not be much different than that in a three bedroom flat. Nevertheless the standards below will help ensure that occupiers of a HMO building will have sufficient private outdoor space.

Table 4: HMO Minimum Amenity Space Requirements

Size of HMO proposal	Amenity Space standard
3 bedsits	Minimum of 20m²
Each additional bedsit above three	+10m² per bedsit

- 4.24 The amenity space must be accessible to all residents and be of high quality, and well designed and laid out as suitable for its intended use. The standard can be met either by provision of a communal area (such as a rear garden or roof terrace), a private space (such as a balcony) or a combination of these. Areas to the front of a building that are not private and areas intended for parking and bin stores will not be included in the calculation. Long narrow spaces will not be included in a calculation of available amenity space as they are not considered to provide useable space.
- 4.25 The Council may, in limited exceptional circumstances, accept a lower amount of amenity space if it is not possible to meet these standards. This will be assessed on a case by case basis. Under no circumstances will the Council accept the provision of no amenity space or space that is significantly below the standard. Some of the factors that may be relevant to whether a lower standard is acceptable include:
- The proposal is within easy walking distance to a local centre, where the benefits of being close to community facilities (such as green spaces, open spaces, or recreational facilities) and public transport are significant;
 - The re-use of an otherwise vacant building has wider significant community or regeneration benefits.
- 4.26 If it difficult to meet the required amenity space standard, applicants must take all opportunities to maximise amenity space within the proposals. This may include for example the removal of existing extensions and outbuildings. The Council will not permit insufficient amenity space if all opportunities to maximise the amount of space have not been taken. Extensions to properties to increase accommodation will not be permitted if this would result in an inadequate amount of amenity space.
- 4.27 **If it is not possible to meet the full amenity open space standard it is the responsibility of the applicant to clearly demonstrate why a lower standard should be accepted.**

Bin Stores

- 4.28 A suitable space for refuse and recycling bins must be provided, for all of the occupants of the building. The bin storage area must be within 25m of a publicly accessible pavement for ease of collection. Where possible, the bin store should be to the side or rear of the property out of public view and where it will not be a nuisance. Where it is necessary for bins to be stored at the front of the property, the bin store should be designed to fit in with the street scene. Bin stores should not create dark recessed areas which could encourage misuse, vandalism or pest control problems.
- 4.29 Where a development affects a heritage asset, the bin store should, where possible, be out of sight from the road.

Access and parking and cycling

- 4.30 Residents of HMOs are less likely to own a car than others residents, and so it is important that HMOs are located in areas that have good access to a variety of means of travel including walking, cycling and public transport. That said much will depend on the type of HMO and the status of the occupants.
- 4.31 The Applicant will need to carefully consider how many car parking spaces are required by the development, and provide a plan of the site showing the layout of the spaces as part of any planning application. The preference will be to provide off-street parking as this will assist in controlling the effects that the development of HMOs can have on on-street parking, particularly in dense urban residential areas such as terraced streets, where existing residents rely on this form of parking with no reasonable alternatives available. **Applicants must clearly explain how the parking requirements of their proposed HMO can be reasonably accommodated without detriment to the existing circumstances in the local area.**

Ref to appeal decision in The Brackens and Inspector's view on parking requirements

- 4.32 The Applicant must also include secure cycle parking facilities within the site. This is especially important due to the low levels of car ownership associated with HMOs. Unless the developer demonstrates to the Council's satisfaction that this is not possible, one secure cycle parking space should be provided for every HMO bedsit unit or self-contained flat within the building. Details should be provided as part of any planning application.
- 4.33 Car parking areas can spoil the appearance of heritage assets, particularly where they are at the front of buildings. Where this is unavoidable, car parking should be sensitively designed. In accessible locations, on-site parking may not be necessary.

5. Part 2: Additional Standards and requirements relating to Flats

- 5.1 Following on from Part 1 of this advice note, the requirements in relation to the development of self-contained flats either on their own, or as part of a mixed development of flats and non-self-contained accommodation, are in most respects the same as for bedsit HMOs as set out in Part 1, but with the exception of the following additional standards and requirements.

Amenity of Occupiers

- 5.2 **Room Sizes** - To ensure that self-contained flats are large enough to provide suitable accommodation for residents the following minimum size standards should be met:

Table 5: Minimum gross internal floor area for flats (m²)

	Total size of accommodation	Minimum main bedroom² size
Studio flat¹	25m²	n/a
1 bedroom flat	37m²	8.5m² (10.5m² if the room is to be considered a double)
2 Bedroom flat	61m²	10.5m²
3 Bedroom flat	74m²	10.5m²

¹ A studio flat is accommodation which has all the living accommodation (bedroom, kitchen, living room) within a single room/space

² A main bedroom is the only bedroom in a one bedroom flat or the largest bedroom in flats with two or more bedrooms

- 5.3 In flats that have two or more bedrooms it is considered that at least one of the bedrooms should be a double (i.e. able to accommodate a double bed or two single beds).
- 5.4 The space within the flat can be used flexibly so that new flats can be designed to meet local market needs or conversions can take account of existing layouts. However, rooms should be of sufficient size for their purpose.

Outdoor Amenity Space

- 5.5 It is important that residents have access to an area of private outdoor amenity space. For flats this is usually provided as a communal area that is available for all residents of the flats to use. This space is intended to provide an area for residents for informal recreation, drying clothes and socialising.
- 5.6 The minimum standard for outdoor amenity space for flats is as follows:

Table 6: Minimum Amenity Space Requirements for Flats

Amenity Space Required
20m² per flat

- 5.7 The amenity space must be accessible to all residents and be of high quality, and well designed and laid out as suitable for its intended use. The standard can be met either by provision of a communal area (such as a rear garden or roof terrace), a private space (such as a balcony) or a combination of these. Areas to the front of a building that are not private and areas intended for parking and bin stores will not be included in the calculation. Long narrow spaces will not be included in a calculation of available amenity space, as they are not considered to provide useable space.
- 5.8 The Council may, in limited exceptional circumstances, accept a lower amount of amenity space if it is not possible to meet these standards. This will be assessed case by case. Under no circumstances will the Council accept the provision of no amenity space or space that is significantly below the standard. Some of the factors that may be relevant to whether a lower standard is acceptable include:
- The proposal is within easy walking distance to a local centre, where the benefits of being close to community facilities (such as green spaces, open spaces, or recreational facilities) and public transport are significant;
 - The re-use of an otherwise vacant building has wider significant community or regeneration benefits.
- 5.9 If it is difficult to meet the required amenity space standard, applicants must take all opportunities to maximise amenity space within the proposals. This may include the removal of existing extensions and outbuildings and/or the inclusion of appropriate roof terraces. The Council will not permit insufficient amenity space if all opportunities to maximise the amount of space have not been taken. Extensions to properties to increase accommodation will not be permitted if this would result in an inadequate amount of amenity space.
- 5.10 If it is not possible to meet the full amenity open space standard it is the responsibility of the applicant to clearly demonstrate why a lower standard should be accepted.

Access and parking and cycling

- 5.11 The Council's Supplementary Guidance Note No.11 Parking Standards sets out the principles that ensure that new flats developments have adequate parking spaces.
- 5.12 Applicants will need to consider how many car parking spaces, are required to serve the development in line with the above parking policy, and provide a plan of the site showing the layout of the spaces as part of any planning

application. **Applicants must clearly explain how the parking requirements of their proposed flatted accommodation can be reasonably accommodated without detriment to the existing circumstances in the local area.**

6. Part 3: Living Conditions of Neighbours and Character of the Area

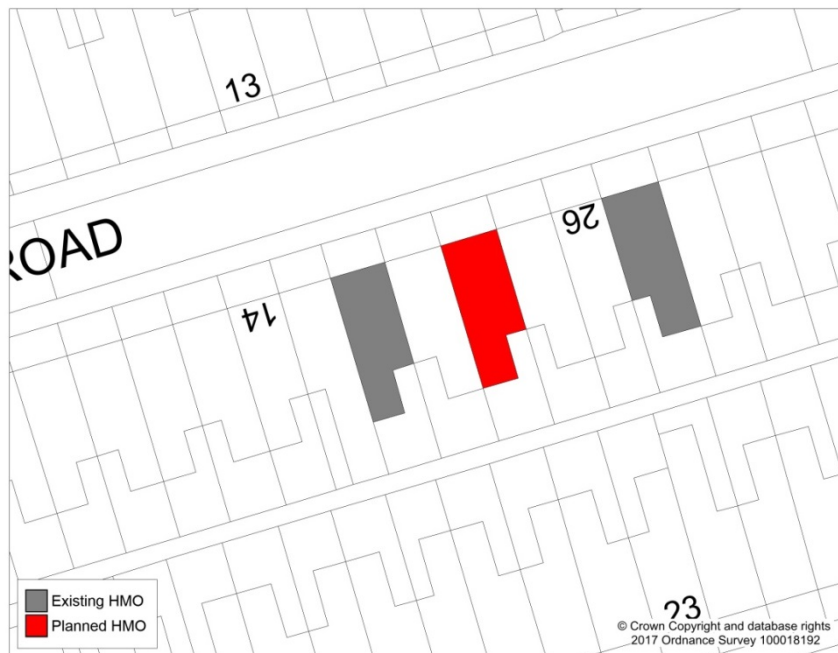
- 6.1 Permitting the conversion of a building into a House in Multiple Occupation can help bring back into viable use an otherwise vacant property. However, they also have the potential to cause a nuisance to existing neighbouring residents. Additionally, an over proliferation of conversions to HMOs in a local area can have a negative impact on residential amenity and change the character of an area for the worse.

Reducing the impact on neighbouring properties

- 6.2 The conversion of a property into a HMO has the potential to adversely impact on its immediate neighbours. The sub-division of a single family home into accommodation for a number of households could have a detrimental impact on noise, parking, waste etc. The following restrictions are intended to reduce the potential harm on existing properties/neighbours within close proximity to a proposal for a HMO. **It will be the responsibility of the applicant to research and determine the circumstances below and whether their proposal is capable of complying with the following requirements.**

- 6.3 The Council will not permit the following when considering applications for conversions to HMOs:

a). **A non-HMO property will not be allowed to be ‘sandwiched’ between**

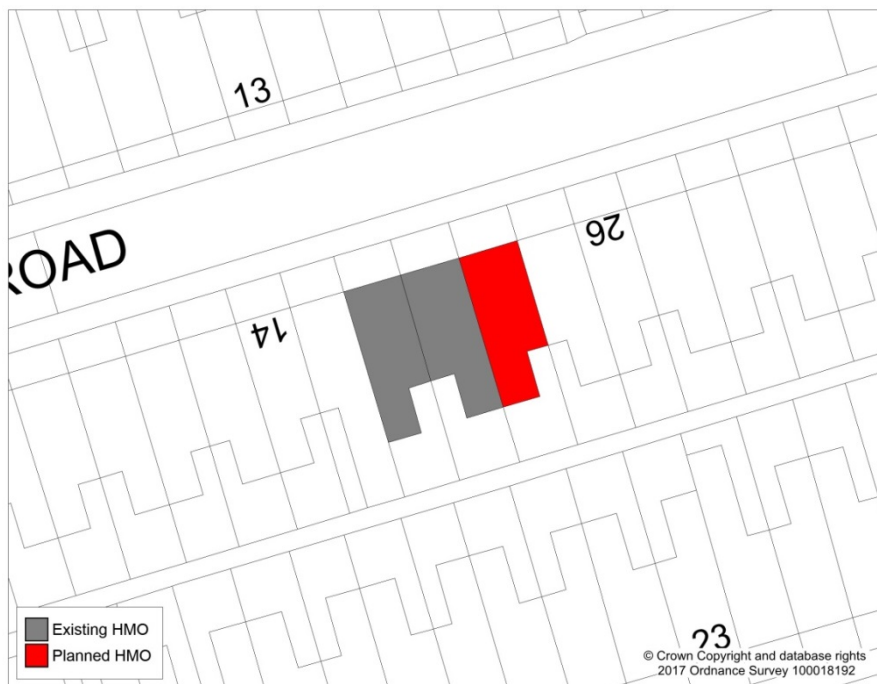


two HMOs.

- 6.4 In the example above the proposed HMO (at number 22) would result in a neighbouring non-HMO property (number 20) being sandwiched between two HMOs. **This would not be acceptable.**
- 6.5 However, in the example below the proposed HMO (at number 18) would not result in a non-HMO property being sandwiched between two HMOs. **This would be acceptable in principle.**



b). Proposals shall not result in three adjacent HMOs, unless the



application property is located between two existing HMOs

6.6 In the example above the proposed HMO would result in a row of three HMOs. **This would not be acceptable.** However, in the example below, whilst the proposed HMO (at number 20) would result in a row of three consecutive HMOs, the property is sandwiched between two existing HMOs. It is considered that allowing this property to convert to a HMO would solve an existing problem of a single home being sandwiched between two HMOs. **This would be acceptable in principle.**



- 6.7 These restrictions apply to all house types, including terraced, semi-detached and detached properties. These restrictions will not apply if the properties (including the curtilage) are separated by a road (minimum of 5.5m) suitable for vehicles or an area of undeveloped land (that is at least 5.5 wide).
- 6.8 Communal rooms, where residents would be expected to spend periods of time (kitchen, lounge etc.) or circulation areas (including stairwells), should be avoided where they would share a party wall with a bedroom in a neighbouring property. Communal rooms and circulation areas should be located so as to cause minimal nuisance to both future and existing residents. If locating a communal area next to a bedroom cannot be avoided, it may be necessary to secure sound insulation measures through a condition.

7. Useful Contacts and Links

For Planning Development Management (01352 703248)

Web?

Email?

For Planning Policy (01352 703213)

Web?

Email?

For Heritage and design issues (01352 703218/ 703297)

Web?

Email?

For Building Control (01352 703418)

Web?

Email?

For Highways Development Control (01352 704617)

Web?

Email?

For Environmental Protection (01352 70XXXX)

Web?

Email?

For Housing Standards (01352 70XXXX) & HMO Licensing Environmental Control, (01352 703396)

The postal address for all of the above is:

**Flintshire County Council,
County Hall,
Mold,
CH7 6NF**

Procedures

1. Consulting with the community before making your application

You are encouraged to consult local residents and other key interests before making an application.

2. Pre-application advice

As discussed above, this type of development involves a number of issues that will need to be addressed with a planning application. An applicant is therefore strongly encouraged to seek advice before making the application from the Council. Information about what service we offer, what information is needed and what fees we charge for pre-application advice can be found at <http://www.flintshire.gov.uk/en/Resident/Planning/Pre-application-Planning-Advice.aspx>