



Houses in Multiple Occupation and Small Flats Supplementary Planning Document (SPD)

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Contents

Contents.....	3
1. Introduction	5
2. Purpose and Scope of the SPD	5
Houses in Multiple Occupation (HMOs)	6
Small flats, Studios and Self-contained Bedsits	6
3. Policy Context	6
National Policy.....	6
Local Policy	7
4. What is a House in Multiple Occupation? (HMO)	8
The Housing Act	8
Planning Legislation.....	8
Article 4 Directions.....	9
5. How will applications for HMOs be considered?	11
Amenity of neighbours and local character.....	11
Cumulative Impact.....	11
Living conditions	12
Balance of HMOs within Burnley Town Centre	12
Flood Risk.....	13
Making a Planning Application.....	13
Licensing.....	13
6. Small Flats.....	15
Cumulative Impact.....	16
Acceptable Conditions for Future Users and Occupiers.....	16
Appendices.....	19
Appendix A – HMOs and the Housing Act (2004)	21
Standard test for HMOs	21
Self-contained flat test.....	21
Converted building test.....	22

HMO declarations	22
Converted houses – section 257 HMOs	23
Definition of a single household	23
Only or main residence	23
Exemption from HMO regulations	24
Appendix B – Burnley Council House in Multiple Occupation Standards.....	25
Space Standards	25
HMOs with kitchen facilities for the exclusive use of the occupants (Bedsits)	25
Usable Space	26
Washing Facilities and Toilets	26
Kitchens	27
Kitchen for Exclusive use: Bedsits:	29
Fire Safety.....	30
Fire Risk Assessment	30
Higher Risk Houses.....	33
The Management of HMO’s.....	33
Definitions:.....	33
Occupiers of a HMO’s:.....	35
Waste Disposal	36
Appendix C - National, Regional & Local Policies	37
National Planning Policy Guidance	37
Local Plan Policy.....	37

1. Introduction

- 1.1. This Supplementary Planning Document (SPD) has been prepared by Burnley Council as part of its planning policy framework.
- 1.2. It supplements the policies of the Burnley's Local Plan in relation to maintaining and achieving a balance of households within the Borough's neighbourhoods and ensuring that different housing needs are met whilst protecting the interests of residents, landlords and businesses. The text of the most relevant policies can be seen in Appendix C.
- 1.3. SPDs elaborate upon the policy and proposals in Local Plans, but do not have their formal statutory 'Development Plan' status. They are, however, material considerations in the consideration of relevant development proposals.
- 1.4. The SPD was adopted by the Council on *[to be inserted]*.

2. Purpose and Scope of the SPD

- 2.1. The focus of this SPD is proposals for Houses in Multiple Occupation and small flats (including studios and self-contained bedsits). Its particular focus is on conversions and changes of use rather than new build schemes as these are much less common in Burnley. The principles and guidance would still be relevant to new build schemes, but a wider range of considerations would also be relevant.
- 2.2. The SPD guidance is therefore limited to the following uses and 'use classes':
- Conversion of a non-domestic building into a HMO (between 3 and 6 unrelated individuals – Use Class C4)
 - Change of use of a Use Class C3 dwellinghouse to shared housing occupied by more than 6 people (*Sui Generis* Larger HMO)
 - Change of use of an existing small HMO (Use Class C4) to a larger HMO (*Sui Generis*)
 - Change of use and conversion of non-domestic buildings and individual dwellinghouses to small flats (small one bedroomed flats, studios and self-contained bedsits (Use Class C3))
- 2.3. Whilst it does not cover residential institutions (C2), where schemes provide a low level of care or support such that they remain in Class C3 or become *sui generis* (by virtue of being a mixed use or use outside any of the uses classes), the guidance on small flats will apply. It does not cover hostels (*sui generis*) or student halls of residence.
- 2.4. Whilst Burnley's Local Plan includes policies that are used to assess applications for new HMO's and small flats, where schemes require planning approval, this SPD provides more detail on these policies and how they apply to these types of developments. It has been prepared to assist property owners, planning applicants, planning officers and elected councillors in preparing, commenting on and determining planning applications

Houses in Multiple Occupation (HMOs)

2.5. Planning applications for HMOs have increased in the borough in recent years and concerns have been raised both over the concentration of these within certain locations and about the quality of accommodation they sometimes provide.

2.6. Whilst it is acknowledged that HMOs and the wider private rented sector play an important role in meeting housing needs, an increase in the number of HMOs generally and a concentration of these within particular locations, can have negative impacts.

2.7. The Local Plan seeks to provide a mix of housing types and tenures to meet the needs of all households, and an oversupply of HMOs can reduce the supply and affordability of homes for families to rent or to purchase their first home. HMOs can also have an adverse impact on the environment through parking problems and litter; and social impacts such as anti-social behaviour. In addition, the occupation of dwellings as HMOs by a higher number of adults compared to a typical family home, can place additional demands on services and infrastructure, for example increased waste generation and collection.

2.8. The concentration of HMOs in certain areas can also create issues; it can alter the character of neighbourhoods and adversely affect new and existing residents and businesses. These effects may arise from divisions between social groups and lack of interaction, high turnover of occupants, poor upkeep, parking issues and issues with refuse storage.

2.9. There are currently (December 2021) 31 licensed HMOs in the Borough.

Small flats, Studios and Self-contained Bedsits

2.10. There have been a significant number of planning applications for small flats over the last few years, mostly involving the change of use and conversion of former office buildings and individual dwellinghouses. In determining these applications, the Council is mindful of the overall mix of housing required to meet the borough's needs and also the quality of schemes, particularly in terms of internal space standards, external amenity space and car parking. Due to changes to permitted development rights introduced since 2013, a number of these schemes do not require planning permission or require 'light touch' prior notification process which only allows a limited number of factors to be addressed.

3. Policy Context

National Policy

3.1. National planning policy exists in the form of the National Planning Policy Framework (NPPF) and a small number of other policy documents and written ministerial statements, supported by a frequently updated online Practice Guidance covering a series of themes. It also exists in the provisions of the relevant Act of Parliaments, key sections of which are also described in Appendix A.

3.2. The NPPF sets out that the purpose of the planning system is to contribute to the achievement of sustainable development. One of the three overarching objectives of the NPPF requires the planning system to support strong, vibrant and healthy communities by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations.

3.3. Whilst there is no specific reference to HMOs within the NPPF, it sets out the Government's objective of "significantly boosting the supply of homes" and requires Councils to assess and reflect in their local plans, the number, size, type and tenure of housing needed for different groups in the community, including for those who require affordable housing, students, families, and people who rent their homes etc. The Practice Guidance echoes the content of the NPPF in that it does not provide specific advice on HMOs, however, it does provide guidance on planning for the housing needs of different groups.

3.4. Paragraph 119 of the NPPF states: "Planning policies and decisions should promote an effective use of land in meeting the need for homes and other users, while safeguarding and improving the environment and ensuring safe and healthy living conditions."

3.5. Paragraph 126 of the NPPF states that; "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

Local Policy

3.6. Current local policies can be found in Burnley's Local Plan which was adopted on 31st July 2018. Local Plans are prepared to be consistent with national policy.

3.7. Whilst the Local Plan does not contain any policies that specifically relate to HMOs, Local Plan Policy SP4 sets the development strategy for the Borough and supports new development within defined Development Boundaries where it is of an appropriate type and scale, bearing in mind the role of the settlement in the hierarchy, and where it satisfies a number of overarching criteria including that: "it does not have an unacceptably detrimental impact on residential amenity or other existing land users."

3.8. Policy SP5 requires high standards of design, construction and sustainability through setting a number of minimum requirements to be addressed, including: respecting existing or locally characteristic street layouts, scale and massing; have respect for townscape setting and where appropriate, landscape setting; and, not result in unacceptable conditions for future users and occupiers of the development. Further criteria are included within the policy to ensure that there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users and to provide adequate and carefully designed storage for bins and recycling containers.

3.9. Policy HS4 states that new housing developments should be high quality in their construction and design in accordance with Policy SP5 and sets out requirements a range of matters relating to all housing developments, including privacy, outlook, daylight; and for larger schemes, requirements for adaptable homes and public open space.

3.10. A wide range of other Local Plan policies would also be relevant to any schemes for HMOs or small flats depending on the particular type and location of the scheme in question, e.g. parking requirements (IC5) flood risk (CC4) and conservation areas and listed buildings (HE2).

4. What is a House in Multiple Occupation? (HMO)

4.1. Houses in Multiple Occupation (HMOs) are defined separately by housing and planning legislation. The definition of HMOs was originally set by the Housing Act 2004, with a definition of HMOs introduced to the Use Classes Order¹ for planning purposes in 2010.

The Housing Act

4.2. Under the Housing Act 2004², a building, or part of a building, is considered to be an HMO if it meets one of the three tests below. These are set out in more detail in Appendix A, along with further information from the Housing Act:

- It is occupied by more than one single household which shares facilities such as a toilet, bathroom or kitchen. This is known as the **'standard test'**; or,
- It is occupied by more than one single household within a converted building that does not entirely comprise self-contained flats (whether or not there is also a sharing or lack of amenities). This is known as the **'self-contained test'**; or,
- It is occupied by more than one single household within a property made up entirely of converted self-contained flats and the standard of conversion does not meet, at a minimum, that required by the 1991 Building Regulations and more than one third of the flats are occupied under short tenancies. The **'converted building test'**.

4.3. A 'household' is defined within the Housing Act 2004 as an individual or members of the same family, partners or co-habiting couples and relatives.

4.4. The Act also defines types of living accommodation that are not HMOs³. These include, but are not limited to; properties occupied by the owner and up to two lodgers, higher education halls of residence or properties occupied by religious communities.

Planning Legislation

4.5. Planning legislation now defines two different types of HMO. Until 2010, HMOs were either included within the definition and use class of dwellinghouses (C3) or were *sui generis* i.e. not in any use class and always required planning permission.

Use Class C4 (i.e. small HMOs)

4.6. In 2010, changes to the General Permitted Development Order (GPDO)⁴ introduced a new Use Class, C4, covering the following uses:

- Small shared dwellinghouses occupied by between 3 and 6 unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom

¹ Town and County Planning (Use Classes) Order 1987 (as amended).

² Section 254 of the Housing Act (2004)

³ See Schedule 14 of the Housing Act (2004)

⁴ The Town and Country Planning (General Permitted Development) Order 1995 (as amended)

4.7. Care homes, children's homes, bail hostels and small religious communities are excluded from Use Class C4. Properties occupied by the owner and up to two lodgers are also excluded. Some of these uses are in Use Class C3, some in other Use Classes and some are *sui generis*.

4.8. Use Class C3 was amended accordingly to reflect this new C4 use class, and C3 use now consists of the following:

- Class C3a - Those living as a single household as defined by the 2004 Housing Act 2004 (basically a 'family' where there is no limit on the number of members of the household)
- Class C3b - Not more than six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems
- Class C3c - Not more than six people living together as a single household who do not fall within the C4 definition of a HMO (for example a small religious community, or homeowners with up to 2 lodgers)

4.9. Planning permission is required for the conversion of a non-domestic building into a Class C4 small HMO. Planning permission is not currently required to convert a Use Class C3 dwellinghouse into a Use Class C4 small HMO. That conversion can be done under Class L of the permitted development rights set out in the General Permitted Development Order (Paragraph A of Class L in Part 3 to Schedule 2).

Sui Generis (i.e. larger) HMOs

4.10. Larger HMOs are typically defined as having more than 6 unrelated people sharing amenities, and are not classified by the Use Classes Order. For planning purposes such HMOs are regarded as having a '*Sui Generis*' use (meaning that they do not fit comfortably into a standard use class).

4.11. The change of use of a non-domestic building, the change of use of a Use Class C3 dwellinghouse, and the change of use of a Class C4 small HMO to shared housing occupied by more than 6 people (a large *sui-generis* HMO) requires planning permission.

4.12. Existing large HMOs may require planning permission for the occupation of further residents if they have a previous planning permission that states the number of residents within the application description, or other restrictive condition.

Article 4 Directions

4.13. Article 4 Directions can be used by local planning authorities to remove permitted development rights in part or all of their area, thereby requiring planning permission for developments that would otherwise be permitted development.⁵ They area means by which local planning authorities can exert greater control over small HMOs (i.e. by requiring planning permission for the change of use of a dwelling house in Use Class C3 to a small HMO in Use Class C4).

⁵ There are currently two Article 4 Directions in Burnley which relate to the protection of visual amenity and the character and appearance of the countryside. Neither are related to HMOs
<https://www.burnley.gov.uk/residents/planning/permission-needed/applying-planning-permission-residential/when-are-permitted>

4.14. The NPPF (para. 53) requires the use of Article 4 Directions of this type to be limited to situations where it is “necessary to protect local amenity or the wellbeing of the area”; and in all cases, to “be based on robust evidence, and apply to the smallest geographical area possible”.

4.15. The Planning Practice Guidance “When is Permission Required?” similarly states that evidence is required to justify the purpose and extent of a Direction, to demonstrate that such action is needed to protect local amenity or well-being of the area. The PPG also requires the potential harm that the Article 4 direction is intended to address to be clearly identified, and there will need to be a particularly strong justification for the withdrawal of permitted development rights relating to a wide area (for example those covering a large proportion of or the entire area of a local planning authority).

4.16. Of course, the introduction of an Article 4 Direction does not mean that all planning applications for a change of use from a dwellinghouse to a Use Class C4 HMO should or will be refused. Rather, the Direction, in requiring the submission of a planning application, allows the impacts of the development to be considered.

4.17. The Council may consider the need for an Article 4 Direction to help control the increasing number of small HMOs.

5. How will applications for HMOs be considered?

5.1. The Local Plan includes a range of policies that may be relevant to specific HMO proposals, depending on their location and size, and these should be taken into account as appropriate.

5.2. Policies SP4, SP5 and HS4 in particular, include criteria which will be relevant to all HMO applications and the key factors that these policy clauses address and how schemes will be assessed in terms of meeting the requirements is explained below.

Amenity of neighbours and local character

5.3. In accordance with policy, new HMOs must not have an unacceptable detrimental impact on the amenity of neighbouring occupants or adjacent land users and ensure appropriate levels of privacy and outlook for adjacent residents. They should also retain the quality of the street scene and demonstrate high standards of design construction and sustainability.

5.4. The intensity of the use of the property by way of the increased number of occupiers and their associated impacts can be felt over a range of issues. The particular issues which will be taken into consideration include:

- Noise and disturbance;
- The adequacy and location of refuse, recycling and bicycle storage;
- The impact on the character of the building and the surrounding area;
- The impact on highway safety, car parking and congestion on the surrounding streets.

Policies SP4 2 c), Policy SP5 2 e), Policy SP5 2 g), Policy SP5 2 i), Policy IC3 2 and Policy IC3 3. These require that development proposals do not have an unacceptably detrimental impact on residential amenity or other existing land users, have respect for their townscape setting, ensure that there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users, provide adequate and carefully designed storage for bins and recycling containers; and indicate that development will be expected to provide a minimum number of parking spaces per new dwelling depending on their type and location. Adequate provision for cycle parking will also be expected.

Cumulative Impact

5.5. It will be necessary to consider the cumulative impact that proposals will have on local character and amenity.

5.6. Where there is a high localised concentration or where a dwelling house would be sandwiched between HMOs, the impact on existing residents may be considered such that the application is refused.

5.7. In other instances, as referred to in para 2.8, the concentration of HMOs in certain areas can alter the character of neighbourhoods and adversely affect new and existing residents and businesses.

Policies SP4 2c), Policy SP5 2 e), Policy SP5 2 g) and Policy SP5 2 i) require that development proposals do not have an unacceptably detrimental impact on residential amenity or other existing land users, have respect for their townscape setting, ensure that there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users

Living conditions

5.8. In line with policy, new HMOs of all sizes should provide acceptable conditions for future occupiers of the development and appropriate levels of privacy and outlook and natural daylight and, where appropriate, access to outdoor amenity space. Some locations, such as those within town centres, may require alternative solutions, for example, considering the opportunity to access existing areas of outdoor space nearby. Noise transfer within the property should be addressed by layout and appropriate levels of noise insulation.

5.9. To ensure that proposals comply with policy, in particular clause 2 h) of SP5, the accommodation, internal layout, measurements of the HMO and associated access and storage should meet the standards⁶ within Appendix B of this SPD, or replacement standards adopted in the future by the Council, unless in exceptional circumstances an alternative approach can be justified to the Council's satisfaction. An example of the type of proposal where an alternative approach may be justified is one involving a heritage asset where the strict application of all of the requirements would harm the asset. However, the accommodation must be of a satisfactory standard and if this cannot be achieved without harm to the heritage asset, such schemes are likely to be refused.

5.10. Applications should include a full set of floor plans which identify whether rooms are single or double, and the layouts of furniture including sanitary ware.

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

Policy SP5 2 h) requires that development does not result in unacceptable conditions for future users and occupiers of the development. Policy HS4 2) requires private and functional outdoor space for occupants, adequate levels of daylight and appropriate levels of privacy and outlook for occupants.

Balance of HMOs within Burnley Town Centre

5.12. Changes to the balance of uses within Burnley Town Centre created by proposals for HMOs may have a detrimental impact on the vitality of the town centre. The Local Plan defines a Burnley Town Centre Boundary. Within the Town Centre Boundary there is a defined Primary Shopping Area⁷ which is made up of the town centre's primary and secondary frontages. The aim of identifying these areas is to maintain a critical mass of retailing uses. Policy TC3 sets out the level of non retail A1 units that will be allowed in primary and secondary frontages.

5.13. In the rest of the town centre (outwith the Primary Shopping Area) there is a greater degree of flexibility on uses. In accordance with Policy TC2, however, the Council will seek to refuse planning applications for residential uses (including HMOs) where the development would lead to a concentration of residential uses within the Burnley town centre which would undermine the overall mix of main town centre uses.

5.14. An unacceptable concentration would be considered to be present where:

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

⁶ Burnley Borough Council's Standards for Houses in Multiple Occupation: October 2018
<https://www.burnley.gov.uk/residents/housing/private-rented-sector/house-multiple-occupation-hmos/burnleys-hmo-standards>

⁷ In Padiham the Primary Shopping Area is one and the same as the Town Centre Boundary. Within Padiham Town Centre residential uses, including HMOs will only be permitted on upper floors.

5.15. Exceptional circumstances may exist where the concentration of HMOs within the 100m radius is such that the retention of remaining buildings will have little effect on the balance and mix of properties/households. In these circumstances it is recognised that some owners or long-term residents, being in the significant minority, and wanting to leave the street, may struggle to sell their property for their continued use.

5.16. Evidence of marketing for a period of at least 6 months at a reasonable value, will be also be required to support such applications.

5.17. In September 2020 changes to the Town and Country Planning (Use Classes) Order 1987 (the 'UCO') came into effect and introduced a single 'Commercial, Business and Service' Class E which combined a number of the previous retail, office and non-residential institutions and assembly and leisure uses classes including shops, restaurants, offices, gyms and nurseries.

5.18. In 2021, an update was made to the General Permitted Development (England) Order 2015 (the 'GPDO') to allow (from August 2021) the change of use of these Class E properties of up to 1500m² to residential use subject to meeting all limitations and conditions set out, including 'Prior Approval'.

Policy TC2 8 b) requires that residential development in Burnley Town Centre outwith the Primary Shopping Area does not lead to a concentration of residential uses which undermines the overall mix of main town centre uses or c) prejudice the lawful operating conditions or viability of adjacent land uses

Flood Risk

5.19. A change of use to a HMO within Flood Zone 2 (medium) or 3 (high) may increase the risk to occupants, particularly where the proposals would involve the creation of sleeping accommodation on the ground floor. In line with Local Plan Policy CC4, the Council will seek to ensure that development does not result in increased flood risk and where necessary, that mitigation is included to protect occupiers.

Policy CC4 1) states that the Council will seek to ensure that new development does not result in increased flood risk from any source or other drainage problems, either in the development site or elsewhere

Making a Planning Application

5.20. Advice on how to make a planning application can be found on the Council's website or by seeking pre-application advice. Further information can be found using the following links:

Making a Planning Application

<https://www.burnley.gov.uk/residents/planning/development-control/how-make-application>

Pre-applications

<https://www.burnley.gov.uk/residents/planning/development-control/permission-needed>

Licensing

5.21. Licensing is a separate consenting regime. Under HMO licensing legislation a lack of planning permission is not a relevant factor when making a decision on whether to grant or refuse an HMO

licence. However, Government guidance 'Houses in Multiple Occupation and residential property licensing reform: Guidance for Local Housing Authorities'⁸ states that *"We actively encourage local authorities to ensure planning permission has been given before issuing a licence. Wherever possible we recommend processing consents in parallel, to resolve any issues as early as possible"*. Conversely, having planning permission in place (or not requiring it) does not mean you are licensed to operate an HMO and you may therefore need to apply for this separately.

5.22. Where the council becomes aware of an unauthorised HMO through licensing activity the council will consider whether it is expedient to take enforcement action.

5.23. A licence is required for HMOs in Burnley borough for rental properties that meet all the following criteria:

- There will be 5 or more unrelated people living in it
- There will be 2 or more separate households living there
- The tenants will share some amenities like the kitchen, toilet or bathroom.

5.24. The Council's website includes details about HMO licensing and the license application process:

<https://www.burnley.gov.uk/HMO>

⁸ Houses in Multiple Occupation and residential property licensing reform: Guidance for Local Housing Authorities' October 2019
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925269/HMOs_and_residential_property_licensing_reforms_guidance.pdf

6. Small Flats

- 6.1. As set out in Section 2, this SPD focuses on small one bedroomed flats, studios and self-contained bedsits⁹.
- 6.2. The Local Plan sets out that providing a mix of new housing types across the Borough is essential. Policy HS3 details how proposals will be assessed and sets out indicative housing mix proportions based on evidence of need and demand from the Strategic Housing Market Assessment.
- 6.3. As part of the ongoing monitoring of the implementation of the Local Plan the Council is monitoring the number of planning permissions and completions relative to the indicative housing mix proportions. Should it become apparent that further provision of small flats for example would result in an unwelcome imbalance of house types and sizes when set against these proportions, this will be considered as part of the 'planning balance' when determining planning applications; along with a consideration of the individual impact of proposals.
- 6.4. A wide range of Local Plan policies would apply to any particular scheme depending on its scale and location and whether it is new build or conversion. Most of these considerations would apply similarly to schemes for large flats and houses. The purpose of this part of the SPD is to look at some of the issues that are specific to or highlighted with schemes for small flats and where additional guidance on the application of Local Plan policy is considered helpful. These include Policies SP4, SP5, HS4 and IC3. The criteria covered by these policies which this SPD intends to provide further guidance include the following:

SP4 2 c) - It does not have an unacceptably detrimental impact on residential amenity or other existing land users

SP5 2 g) - Ensure there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users, including by reason of overlooking

SP5 2 e) - Have respect for their townscape setting and where appropriate, landscape setting

SP5 2 a) - Respect existing, or locally characteristic street layouts, scale and massing

SP5 2 h) - Not result in unacceptable conditions for future users and occupiers of the development

HS4 2 a) - be well laid out to ensure habitable rooms receive adequate levels of daylight

HS4 2 c) - provide appropriate levels of privacy and outlook for occupants

HS4 2 b) - Provide private and functional outdoor space for occupants. For flats and mews/courtyard developments, outdoor space may be shared

IC3 2 - For residential schemes, development will be expected to provide a minimum number of parking spaces per new dwelling depending on their type and location

IC3 3 – Adequate provision for cycle parking will also be expected.

⁹ For the purposes of this SPD a small flat will be a flat less than 39m²

6.5. These criteria are intended both to safeguard against unacceptable adverse impacts on existing residents, other land users, neighbourhoods and town centres; but also to ensure that the standard of accommodation provided for new residents is adequate and does not create problems amongst the new residents or physical and mental health problems for individual residents. In considering proposals against these policy criteria, the Council will take account of the following issues.

Cumulative Impact

6.6. When considering cumulative impacts, the impact of a proposals on townscape, neighbouring occupiers and adjacent users, the appropriate scale for the assessment will normally be the 'local neighbourhood' which has a similar function/activity to the street where development is proposed. For proposals in town centres cumulative impacts would also include a second level of assessment across the wider town centre.

Acceptable Conditions for Future Users and Occupiers

6.7. The internal layout and other aspects of proposed small flat developments should result in good quality living accommodation for residents. All proposed developments should adopt the following approaches as good practice:

Internal Layout

6.8. Currently, there are no minimum space standards prescribed for small flats in the Local Plan. Whilst future planning policies will consider the need to introduce standards to reflect the National Described Space Standards (NDSS), these are not currently included in the Local Plan. The Local Plan does however require schemes to provide acceptable conditions for future occupiers to be well laid out ensuring there is adequate daylight, privacy and outlook and as such these nationally described standards can provide a benchmark for assessing the adequacy of internal floor space.

6.9. Failure to meet these standards would not automatically be a reason for refusal of planning permission, however, a development which fails to meet them may be judged to not meet criteria SP5 2) h) and may give rise to other planning issues such as inadequate outlook and daylight or result in issues associated with the overdevelopment of sites.

Noise

6.10. As noted in the Council's Authority Monitoring Report, a significant proportion of complaints received by the Council's Environmental Health team concern domestic noise.

6.11. To reduce noise transfer problems both within and between dwellings, care should be taken with which rooms are beside, above or below each other. Halls, corridors and storage space can be used to absorb sound and act as buffers against sound transmission between and within dwellings.

- In order to minimise noise nuisance between dwellings, rooms with a similar use should be placed next to and above one another (stacking) wherever possible to avoid living and sleeping spaces sharing common walls, floors and ceilings
- Non-habitable rooms such as hallways or storage space should be used as noise buffers between or within dwellings wherever possible
- Building and dwelling layouts should be planned to limit the transmission of airborne and impact sound from common areas

Waste (Refuse and Recycling) Storage

6.12. Waste generation levels are likely to be higher for schemes involving small flats in comparison to a lower number of larger flats or single dwelling houses.

6.13. The design and layout of developments must therefore be carefully considered to ensure that there are adequate facilities for waste storage both internally and externally, and for collection. Schemes that do not provide for adequate and appropriately screened storage will not be supported.

6.14. The majority of properties in the Borough can have up to three bins: a recycling bin; a garden waste bin and a non-recyclable bin. Plans for the provision of storage areas should therefore take account of these storage requirements.

6.15. In order to ensure that adequate provision is made for waste, the following information must be provided:

- Proposed floor plans to show the location of an internal waste storage area to be used prior to removal to an external storage area. The internal storage area must be sited so not to be a danger to children, or cause problems with hygiene and attract pests. Refuse bins must not be stored on escape routes.
- Proposed site plan and elevations to show the location, size and design of an external waste storage area to be used for the storage of waste and recycling bins. The plans should show the route (and distance) from the external storage area to the collection point.

6.16. The waste storage area must be in a suitable location within the curtilage of the property, sited to be accessible to all residents with a clear route available from it to the public highway in order to facilitate collection. The storage area must be sensitively sited so to be adequately ventilated, capable of being cleansed and avoid any loss of amenity to neighbouring residents or harm to the wider streetscene.

Highway safety and parking, including cycle storage

6.17. Developments for small flats can place additional pressure on car parking within the local area due to higher densities of adults residing at the site. In considering proposals the Council will apply the adopted car parking standards set out in Policy IC3 and Appendix of 9 of Burnley's Local Plan.

6.18. Development will be expected to provide a number of parking spaces per dwelling depending on their type and location.

6.19. The existing and proposed site plan must identify car parking arrangements (where appropriate). Off and on street parking should be carefully designed, safe and appropriate for the streetscene. Car parking provision that would have a significant adverse impact on the character of an area will be resisted.

6.20. Adequate provision must be made for convenient and secure cycle storage within the on the basis of the standards set out in Appendix 9 of Burnley's Local Plan. Adequate space should be provided within the curtilage of the property or within a convenient and secure communal space.

6.21. The cycle storage area must be accessible to all residents with a clear route available from it to the public highway.

6.22. In order to ensure that adequate provision is made for cycle storage, the submitted site plan must show the location and size of the cycle storage area and elevations must be provided of the store

design. The store must be sensitively designed and sited so to avoid any loss of amenity to neighbouring residents or the wider streetscene.

Amenity Space

6.23. Separate to external waste storage and cycle parking requirements, the submitted site plan must also identify the location of an external private or communal area for clothes drying and amenity space for residents. The suitability of the external area to accommodate all requirements will be assessed on a case-by-case basis.

Appendix A – HMOs and the Housing Act (2004)

A1.1 The Housing Act 2004 clarifies the definition of a house in multiple occupation (HMO), replacing the definition under the Housing Act 1985. The definition of an HMO is found in Part 7 of the 2004 Act.¹⁰

A1.2 To be defined as an HMO, a building, or part thereof, must fall within one of the following categories:

- a building or flat in which two or more households share a basic amenity, such as bathroom, toilet or cooking facilities: this is known as the 'standard test' or the 'self-contained flat test'
- a building that has been converted and does not entirely comprise of self-contained flats: this is known as the 'converted building test'
- a building that is declared an HMO by the local authority
- a converted block of flats where the standard of the conversion does not meet the relevant building standards and fewer than two-thirds of the flats are owner-occupied: this is known as a section 257 HMO

A1.3 These tests are explained in detail below.

Standard test for HMOs

A1.4 A building is an HMO under the standard test if the:¹¹

- occupants share one or more of the basic amenities (defined as a toilet, personal washing facilities and cooking facilities) or the accommodation lacks one or more of these amenities
- building does not entirely consist of self-contained flats (it may, however, comprise some self-contained units)
- building is occupied by at least three people who constitute more than one household
- building is the occupants' main residence (or should be treated as such)
- occupation constitutes the only use of the accommodation, and
- rents are payable, or some other form of consideration, for at least one person's occupation

A1.5 This test applies to the most common type of HMO. It applies to shared houses (shared by more than one household such as students) and purpose-built bedsit accommodation. It may also apply to a hostel if the accommodation does not entirely comprise of self-contained units.

Self-contained flat test

A1.6 The criteria to meet the self-contained flat test are the same as the standard test, except that they apply to an individual flat that is in multiple occupation.¹²

¹⁰ s.254 Housing Act 2004.

¹¹ s.254(2) and para 7, Sch. 14 Housing Act 2004

¹² s.254(2) and (3) Housing Act 2004.

A1.7 A unit of accommodation is self contained if it is a separate set of premises, and all three basic amenities are available for the exclusive use of its occupants.¹³

A1.8 If a building comprises both self-contained and non-self-contained accommodation and there is some sharing of facilities, then the standard test applies.

Converted building test

A1.9 The converted building test is met where:¹⁴

- a building or part of a building consists of living accommodation and has been converted, where one or more of the units of accommodation have been created since the building was originally constructed
- it contains at least one unit of accommodation that is not a self-contained flat (there may be some self-contained flats)
- the accommodation is occupied by three or more persons who do not form a single household
- the accommodation is the occupants' main or only residence (or should be treated as such)
- occupation as living accommodation constitutes the only use of that accommodation
- rents are payable

A1.10 This test would apply, for example, in the case of a house converted to bedsits, where bathrooms and/or toilets are shared.

HMO declarations

A1.11 The local authority can make a declaration that a house is in multiple occupation where it is satisfied that the premises meets one of the three tests above and the occupation of the living accommodation (by more than one household) constitutes a 'significant use',¹⁵ rather than 'sole use', of the property.¹⁶

A1.12 An HMO declaration makes it clear that the building shall be regarded as an HMO for the purposes of the Act. The declaration could be used where a hotel taking short-term guests is also providing accommodation for homeless people.

A1.13 The local authority must serve a notice that the building has been declared an HMO on each relevant person (any person with an interest in the building, or who manages or has control of the building, but not a tenant) within seven days of making the decision.¹⁷

A1.14 The notice comes into force after 28 days, which is the period for appeal to the First-tier Tribunal (Property Chamber).¹⁸ If there is an appeal, the notice only comes into effect once it has been

¹³ s.254(8) Housing Act 2004.

¹⁴ s.254(4) Housing Act 2004.

¹⁵ s.260 Housing Act 2004.

¹⁶ s.255 Housing Act 2004; Herefordshire Council v Rohde [2016] UKUT 39 (LC).

¹⁷ s.255(4) Housing Act 2004.

¹⁸ Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 SI 2013/1169; the First-tier Tribunal and Upper Tribunal (Chambers) (Amendment) Order 2013 SI 2013/1187.

confirmed by the Tribunal and the time for appeal against that decision has elapsed (normally 28 days) or the Upper Tribunal confirms the notice.

A1.15 The local authority may revoke the declaration at any time on its own initiative or on application by a relevant person, where the building no longer meets any of the HMO tests. If the local authority refuses an application to revoke an HMO declaration, this decision can be appealed to the First-tier Tribunal (Property Chamber) within 28 days.

Converted houses – section 257 HMOs

A1.16 Section 257 of the Housing Act 2004 applies to whole converted properties rather than individual dwellings and describes a HMO as a building:¹⁹

- which has been converted into and consists of self-contained flats
- where the conversion work did not comply with the appropriate building standards and still does not
- where less than two-thirds of the flats are owner-occupied

A1.17 The appropriate building standards are those required by the Building Regulations 1991 or 2000 (whichever were in force at the time of the conversion).

A1.18 Owner-occupiers are those with a lease of more than 21 years or who own the freehold in the converted block of flats, or a member of the household of the person who is the owner.

Definition of a single household

A1.19 A building is considered an HMO if it is occupied by more than one household. The Housing Act 2004 defines a single household as:²⁰

- a family, for example a couple (whether married or not and including same-sex couples) or persons related to one another
- an employer and certain specified domestic employees
- a carer and the person receiving care
- a foster parent and foster child

Only or main residence

A1.20 To be an HMO the accommodation has to be used by persons as their only or main residence. It is usually apparent if this is the case, but secondary legislation specifies certain situations where the nature of occupation is less clear cut. These include:²¹

- a residence for the purpose of undertaking full-time further or higher education
- a refuge, that is a building or part of a building used by a voluntary organisation for temporary accommodation for people who have left their home as the result of domestic violence

¹⁹ s.257 Housing Act 2004; Hastings BC v Turner [2020] UKUT 184 (LC).

²⁰ s.258 Housing Act 2004.

²¹ s.259 Housing Act 2004; reg 5 Licensing and Management of Houses in Multiple Occupation and other Houses (Miscellaneous Provisions) (England) Regulations 2006 SI 2006/373.

- occupation by migrant or seasonal workers where the employer or agent provides the accommodation
- occupation by asylum seekers and their dependents, where the accommodation has been provided under section 95 of the Immigration and Asylum Act 1999 and the accommodation is provided by a private landlord under contract to or on behalf of UKVI

A1.21 A hostel or night shelter providing accommodation to homeless people may be an HMO because, even if the accommodation is overnight, it is the occupants' only residence. Rent (or consideration) must be paid for the HMO definition to apply.

Exemption from HMO regulations

A1.22 Certain buildings that meet the criteria to be defined as an HMO under the Housing Act 2004 are exempt from the licensing provisions and the management regulations.

A1.23 This comprises buildings that are:²²

- managed or controlled by private registered providers of social housing, a co-operative society, local authorities and other specified public sector bodies
- buildings regulated under other legislation, for example boarding schools, prisons, accommodation centres for asylum seekers and care homes
- occupied by religious communities, unless they are section 257 HMOs
- halls of residence (or other accommodation occupied by students) that are managed or controlled by one of the educational establishments listed in the regulations
- only occupied by an owner/occupier, members of their household and no more than two tenants or licensees. This exemption does not apply to section 257 HMOs
- only occupied by two people who form two households
- properties subject to a temporary exemption notice or an interim management order

²² Sch. 14 Housing Act 2004, as amended.

Appendix B – Burnley Council House in Multiple Occupation Standards

Space Standards

B.1 Houses in Multiple Occupation should meet the following space standards as the minimum requirements.

Table 1 – Space Standards

Minimum Bedroom Size	Total Number of People in HMO	Minimum Kitchen Size	Living / Dining Room Size
Occupant 6.51m ² Or Occupants 11m ²	3 to 5 people	7m ²	11m ²
	6 to 10 people	10m ²	16.5m ²
	11 to 15 people	13.5m ²	21.5m ²
	16+ people	16.5m ²	25m ²
Occupant 10m ² Or Occupants 15m ²	3-5 people	7m ²	No additional communal living space required
	6-10 people	10m ²	
	11 to 15 people	13.5m ²	
	16+ people	16.5m ²	

B.2 The kitchen or living room should be within one floor distance from an occupants bedroom.

HMOs with kitchen facilities for the exclusive use of the occupants (Bedsits)

B.3 A bedsit is where sleeping, living and cooking facilities are provided for exclusive use by the occupants within a single unit of accommodation (e.g. one room). It can be occupied by a maximum of two persons.

B.4 A 1 person bedroom, sitting room and kitchen must be a minimum of 13m². A 2 person bedroom, sitting room and kitchen must be a minimum of 20.5m².

Usable Space

B.5 The measured space in any room must be 'usable space'. The room should be able to accommodate the required amount of appropriate furniture easily and still allow space for movement about the room.

B.6 Any floor space that has a ceiling height of less than 1.5m shall be disregarded for the purpose of measuring the total usable space in the room.

B.7 All habitable rooms, kitchens, bathrooms and toilets shall have a minimum floor to ceiling height of 2.3m, except in the case of basements which shall have a minimum height of 2.14m.

Washing Facilities and Toilets

B.8 Where there are five or more occupiers sharing bathing and toilet facilities there must be at least one separate toilet and wash hand basin with appropriate splash back and at least one bathroom with a fixed bath or shower and toilet.

B.9 The bathrooms or shower rooms and toilets shall be readily accessible and normally not more than one floor away from the user. Shared facilities shall be accessible from a common area. Facilities must be inside the building.

B.10 Bathrooms and shower rooms must be of adequate size and be laid out in such a way as to enable persons to undress, dry and dress themselves in a safe manner.

B.11 Each bath, shower and wash hand basin shall be provided a continuous and adequate supply of hot and cold running water, designed to ensure reasonable temperature control.

B.12 Bathrooms and shower rooms must have adequate lighting, heating and ventilation. Bathrooms, shower rooms and toilets must be fit for the purpose.

B.13 The splash back to a wash hand basin or bath shall be a minimum 300mm high and extend to at least at least equal to the width of the wash hand basin and all joints shall be adequately sealed.

B.14 In the case of a shower whether in it's own compartment or over a bath, the splash-back shall be a minimum 150mm above the height of the shower head and up to the edge of a fixed shower screen (the shower screen must meet current British Standards). Where a shower curtain is used the splash-back should extend 300mm beyond the shower curtain to ensure it is waterproof.

B.15 The walls and ceilings in the bathroom, shower room and toilet should be smooth, impervious, which can be easily cleaned. The flooring should be capable of being easily cleaned and slip- resistant.

B.16 Bathrooms, shower rooms and toilets must be constructed to ensure privacy.

B.17 Any toilet provided in a separate compartment must have a wash hand basin with an appropriate splash back as detailed above.

B.18 The table below explains the sharing ratios for bathrooms and toilets.

Table 2 – Number of Bathroom/Showers and Toilet Facilities

Number of Occupants	Facilities Required
1 to 4 people	1 bathroom containing a bath or shower, toilet with a wash hand basin (the toilet with wash hand basin may be situated in a separate room).
5 people	1 bathroom containing a bath or shower, toilet with a wash hand basin. 1 separate toilet with wash hand basin.
6 to 9 people	2 bathrooms containing a bath or shower, toilet with wash hand basin.
10 people	2 bathrooms containing a bath or shower 2 toilets with wash hand basin, one of which must be in a separate room.
11 to 14 people	3 bathrooms containing a bath or shower, toilet with wash hand basin.
Bedrooms with en-suites	Where a bedroom is provided with a complete en-suite facility (bath/shower, toilet and wash hand basin) for the exclusive use of that occupant, then that occupant will be disregarded when considering the provision of washing facilities for the shared facilities in the remainder of the dwelling.

Kitchens

B.19 A kitchen, suitably located in relation to the living accommodation, and of such layout and size and equipped with such facilities so as to adequately enable those sharing the facilities to store, prepare and cook food.

B.20 The kitchen must be equipped with the following equipment (see Appendix 1 for further information), which must be fit for the purpose and supplied in a sufficient quantity for the number of those sharing the facilities:

- Sinks with draining boards
- An adequate supply of cold and constant hot water to each sink supplied
- Installations or equipment for the cooking of food
- Electrical sockets
- Worktops for the preparation of food
- Cupboards for the storage of food or kitchen and cooking utensils
- Refrigerators with an adequate freezer compartment (or, where the freezer compartment is not adequate, adequate separate freezers)
- Appropriate waste disposal facilities; and
- Appropriate extractor fans, fire blankets and fire doors.

B.21 The kitchen layout must be safe, convenient and allow good hygiene practices.

B.22 Cookers should be located away from doorways and have enough floor space for items to be safely retrieved from the oven

B.23 If two sets of facilities are provided the layout must allow them both to be used safely at the same time. No more than two sets of facilities shall be provided in any one kitchen.

Table 3 – Kitchen Facilities for Shared Use

Number of Occupants	Minimum Provision of Kitchen Facilities
3 to 5 people	<p>A complete set of kitchen facilities consisting of the following items must be provided for every five persons:</p> <p>Sink: A stainless steel sink, integral drainer and a tiled splash-back, on a base unit. A minimum of 300mm high should be provided to the sink and draining board, and all joints shall be adequately sealed. The sink must have constant supplies of hot and cold running water and be properly connected to the drains. The cold water must come directly from the rising water main. It must be possible to stand directly in front of the cooker and sink and to place utensils down on both sides of each.</p> <p>Cooker: A gas or electric cooker with four ring burners, oven and grill, that are capable of simultaneous use. The cooker is to be located away from doorways.</p> <p>Electrical Sockets: At least two double 13amp electrical power points (in addition to those used for fixed appliances, such as washing machines).</p> <p>Worktop: A kitchen worktop that is level, secure and impervious. The minimum dimensions are 1500mm length for 3 occupants plus 500mm per additional person.</p> <p>Storage: A food storage cupboard for each occupant that is at least one 500mm wide base unit or wall unit. The space in the unit beneath the sink and drainer is not allowable for food storage.</p> <p>Fridge/Freezer: A refrigerator with adequate freezer space. If not in the kitchen the fridge/freezer must be freely accessible and adjoining the kitchen.</p> <p>Waste Disposal: Appropriate waste disposal facilities must be provided</p> <p>Ventilation: At a minimum the window opener should be easily accessible to open and close to provide ventilation. Ideally, mechanical ventilation to the outside air at a minimum extraction rate of 60 litres/second, or 30 litres/second if the fan is sited within 300mm of the centre of the hob.</p>

6 to 7 people	A combination microwave is acceptable as a second cooker. A dishwasher is acceptable as a second sink. A refrigerator and a separate freezer.
8 to 10 people	Two complete sets of kitchen facilities as above.

B.24 Where the landlord provides a catering service the facilities must comply with the Food Hygiene (England) Regulations 2006. In addition, some self-catering facilities will need to be provided and the level of facilities required will be determined on a case-by-case basis, taking into account the level of provision by the landlord. Please contact Burnley Council for further advice.

Kitchen for Exclusive use: Bedsits:

B.25 A bedsit is where sleeping, living and cooking amenities are provided for exclusive use by occupants within a single unit of accommodation (i.e. one room).

Table 4 – Kitchen Facilities for Exclusive use: Bedsits

Minimum Provision of Kitchen Facilities for Exclusive use: Bedsits
<p>Cooking: A gas or electric cooker with a minimum two-ring hob, oven and grill.</p> <p>Storage: A food storage cupboard for each occupant that is at least one 500mm wide base unit or wall unit. The space in the unit beneath the sink and drainer is not allowable for food storage.</p> <p>Preparation: A kitchen worktop that is level, secure and impervious. The minimum dimensions are 500mm width and 1000mm length.</p> <p>Electricity: Two double 13 amp power sockets suitably positioned at worktop height for use by portable appliances, in addition to sockets used by fixed kitchen appliances, plus two double sockets located elsewhere within the bedsit.</p> <p>Washing: A stainless steel sink and integral drainer set on a base unit with constant supplies of hot and cold running water. The sink shall be properly connected to the drainage system. The cold water shall be direct from the mains supply. A tiled splash-back shall be provided behind the sink and drainer.</p> <p>Ventilation: At a minimum the window opener should be easily accessible to open and close to provide ventilation. Ideally, mechanical ventilation to the outside air at a minimum extraction rate of 60 litres/second, or 30 litres/second if the fan is sited within 300mm of the centre of the hob.</p> <p>Layout: The same principles of safe layout and design apply in bedsits as for shared kitchens. Cookers must not be located near doorways to avoid collisions.</p>

Fire Safety

B.26 The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 require appropriate fire precaution facilities and equipment must be provided of such type, number and location as considered necessary.

B.27 The Regulatory Reform Order (Fire Safety) 2005 requires all HMOs to have a sufficient risk assessment with regard to fire. The Council will usually complete joint property inspections of licensed HMOs with the Lancashire Fire and Rescue Service.

B.28 The Management Regulations require fire fighting equipment and fire alarms to be maintained in good working order.

B.29 Fire Safety guidance about fire safety provisions for certain types of existing housing is published by LACORS. This document contains advice for landlords and fire safety enforcement officers in both local housing authorities and fire and rescue authorities on how to ensure adequate fire safety.

B.30 The information in Table 5 below is summarised from the Lacors Fire Safety Guidance document and provided to help landlords understand their responsibilities and the fire safety precautions judged necessary for HMOs.

Fire Risk Assessment

B.31 A Fire Risk Assessment is required. A Fire Risk Assessment is an organised and methodical look at the premises, the activities carried on there and the likelihood that a fire could start and cause harm to those in and around the premises. The aims of a Fire Risk Assessment are:

- to identify fire hazards;
- to reduce the risk of those hazards causing harm to as low as reasonably practicable; and
- to decide what physical fire precautions and management arrangements are necessary to ensure the safety of people in the premises if a fire does start.

B.32 For all medium/large HMO's it is recommended that a professional fire risk assessment is completed.

B.33 Further useful information for landlords and agents about fire risk assessments, including a link to find a risk assessor, is available on the Lancashire Fire and Rescue Service website at:

<http://www.lancsbusinessplus.org.uk/>

B.34 The following table provides examples based on typical properties that do not present a high risk.

Table 5 – Fire Safety

Area	Items	Number of Storeys		
		1 or 2	3	4+
Fire Doors	Doors to kitchens must be 30 minute fire doors with combination heat and smoke seal intumescent strips	✓	✓	✓
	Bedroom doors must be 30 minute fire doors with combination heat and smoke seal intumescent strips	✓	✓	✓
	Doors to any cellars must be 30 minute fire doors with combination heat and smoke seal intumescent strips. Note - Self closer devices should be fitted to all 30 minute fire doors.	✓	✓	✓
Fire Alarm System	Grade A* fire alarm system with smoke detectors in escape route at all levels, heat alarm in the kitchen , incorporate manual call points.	✗	✗	✓
	Grade D* fire alarm system with smoke detectors in escape route at all levels and heat alarm in the kitchen	✓	✓	✗
	Additional interlinked smoke alarms to bedrooms	✓	✓	✓
	Additional interlinked smoke alarms in any cellar *Note – For further information about Grades of fire alarm system – see LACORS Housing- Fire Safety guidance.	✓	✓	✓
Fire Fighting Equipment	Fire blanket in kitchen	✓	✓	✓
Locks on Doors	Final exit doors must have a security lock that can be opened from the inside without a key.	✓	✓	✓
	Locks on bedroom doors must be provided with a lock that can be opened without a key from the inside.	✓	✓	✓

Protected Escape Route	30 minute protected escape route. **	✓	✓	✓
	Walls and floors should be of sound, traditional construction;	✓	✓	✓
	Escape windows in each bedroom as an alternative escape route.	✓	✗	✗
	**the staircase enclosure should be of sound, conventional construction throughout the route, and the stairs should be 30 minutes fire resisting.			
Lighting of Escape Routes	Conventional artificial lighting	✓	✓	✓
	Emergency lighting Note – Emergency escape lighting required only if route is complex or where there is no effective borrowed light.	✗	✓	✓
Signage	Signage along escape routes Note – Fire exit signage along escape route if the escape route is complex.	✗	✗	✓

B.35 Although the table above can't detail an exhaustive list of requirements it shows what the necessary requirements may include.

B.36 Fire safety signs/fire exit signs should be considered as part of the fire risk assessment and be fitted along the escape route if the escape route is complex.

B.37 Landlords are required to test and maintain fire alarm and emergency lighting systems in accordance with the British Standards.

Grade A fire alarm systems should be tested weekly. The system must be inspected and serviced at periods not exceeding six months in accordance with the recommendations of Clause 45 of BS 5839-1:2017. An inspection and servicing certificate of the type contained in H.6 of BS 5839-1:2013 should be issued by a suitably qualified and competent person.

Emergency lighting systems should be tested regularly/a minimum of monthly – self certified by landlords, and a full system test and service must be completed annually by a competent person in line with BS5266.

Grade D fire alarm systems should be tested at reasonable intervals/a minimum of 3 monthly. Testing and maintenance must be in accordance with the manufacturer's instructions. Landlords can self-certify this has been completed.

Higher Risk Houses

B.38 If the property is of a non-standard layout or if the occupants present a higher risk due to factors such as drug/alcohol dependency or limited mobility then the risk may increase and additional precautions may need to be taken. This must be factored into your Fire Risk Assessment.

B.39 An example of a non-typical layout is ‘inner rooms’ where the bedroom is located such that the occupant passes through risk rooms (living rooms, kitchens or dining rooms) in order to reach the means of escape. There are various solutions available such as escape windows or water suppression systems; these should be discussed with a case officer before undertaking works.

The Management of HMO’s

B.40 The Management of Houses in Multiple Occupation (England) Regulations 2006 apply to all HMOs (except those consisting entirely of self-contained flats) whether they require a licence or not. These regulations cover the manager’s and occupiers responsibilities to maintain the property in a clean and safe condition

B.41 Anyone failing to comply with any part of the regulations is committing an offence and could be prosecuted by the Council.

B.42 For HMOs consisting of self-contained flats, then The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 apply.

Definitions:

B.43 The regulations refer to ‘the manager’ of an HMO. This is the person managing the HMO. It may be the landlord, manager or agent.

B.44 A ‘household’ is the individual or family occupying the property. For a shared house (eg of students) each person would be considered as a ‘household’ for the purposes of the Regulations.

B.45 ‘Common parts’ are all the areas both inside and outside the property used by more than one household.

B.46 ‘Living accommodation’ is the room(s) let to a household for their personal use.

B.47 The Manager of a HMO Must:

<p>Provide Information to Occupiers</p>	<ul style="list-style-type: none"> ✓ Make each occupier aware of his name, address and contact telephone number ✓ Display these details in a prominent position in the property (usually in a common area of the HMO)
<p>Duty to Take Safety Measures</p>	<ul style="list-style-type: none"> ✓ Maintain means of escape from fire in a safe condition and keep them free from obstruction. ✓ Maintain any fire-fighting equipment and alarms in good working order. ✓ Ensure that all notices indicating the fire escape route are displayed in positions which enable them to be clearly seen by

	<p>occupants (<i>this does not apply where the HMO has four or fewer occupiers</i>)</p> <ul style="list-style-type: none"> ✓ Take steps to protect occupiers from injury having regard to: <ul style="list-style-type: none"> ○ The design of the HMO ○ The structural conditions in the HMO ○ The number of occupiers in the HMO. ○ Making sure any balconies or roofs accessible from the property are safe. ○ Fitting bars or other safeguards to openable windows on the first floor or higher which have a low sill to prevent the window being opened so far that an occupier could fall.
<p>Maintain Water Supply and Drainage</p>	<ul style="list-style-type: none"> ✓ Keep the water supply and drainage system in good working condition, ensuring:- <ul style="list-style-type: none"> ○ Any water storage tank is provided with a suitable cover. ○ Water fittings liable to frost damage should be protected. ✓ The manager must not unreasonably cause or permit the water or drainage supply to be interrupted.
<p>Supply and Maintain Gas and Electricity</p>	<ul style="list-style-type: none"> ✓ Ensure that gas and electricity supplies are maintained in a safe condition. ✓ The manager must not unreasonably cause the gas or electricity supply to be interrupted. ✓ If the Council make a request in writing, provide a copy of the latest gas appliance test certificate within 7 days. ✓ Arrange to have every fixed electrical installation inspected and tested (by a person qualified to do this) every 5 years as a minimum, and obtain a certificate to show the results. If the Council make a request in writing, provide a copy of the latest test certificate within 7 days. ✓ If you provide portable electrical appliances, you will need to supply a PAT test certificate.
<p>Maintain Common Parts, Fixtures, Fittings and Appliances</p>	<ul style="list-style-type: none"> ✓ Keep all common parts: <ul style="list-style-type: none"> ○ In good and clean decorative repair ○ In safe and working condition ○ Prevent the obstruction of these areas. ✓ Make sure all handrails and banisters are in good repair (and provide additional rails or banisters if necessary); stair coverings must be secure and in good condition. ✓ Make sure all windows or other means of ventilation are in good repair.

	<ul style="list-style-type: none"> ✓ Provide adequate light fittings, available for use at all times. ✓ Maintain fixtures, fittings or appliances in good working order. (This does not apply to anything brought in by an occupier). ✓ Keep outbuildings, yards, forecourts maintained in repair, clean condition and good order. ✓ Keep gardens safe and tidy ✓ Keep boundary walls fences and railings etc in good condition and safe. ✓ Make sure any parts of the property which are not in use are also kept clean and free from obstruction including refuse and litter.
Maintain Living Accommodation	<ul style="list-style-type: none"> ○ Make sure that living accommodation and any furniture supplied with it are clean at the beginning of a person’s occupation. ○ Keep in good repair and maintained (this does not apply to anything brought in by the occupier): ○ The internal structure ○ Any fixtures, fittings and appliances within each area of living accommodation ○ Every window and other means of ventilation.
Provide Waste Disposal Facilities	<ul style="list-style-type: none"> ✓ Ensure that sufficient bins are provided for occupiers to store refuse and make arrangements for the disposal of refuse having regard to the service provided by the Council.

Occupiers of a HMO’s:

B.48 The Regulations also place a number of duties upon the occupiers/tenants of an HMO. These duties include:

- 1. Do nothing to hinder the manager in carrying out his duties.**
- 2. Allow the manager, or someone acting on his behalf, to enter at all reasonable times. (before entering for anything other than an emergency the manager must give 24 hours notice).**
- 3. Provide information the manager may need to carry out his duties.**
- 4. Take care to avoid damage to anything the manager is legally required to provide.**
- 5. Store and dispose of refuse and litter correctly.**
- 6. Comply with reasonable instructions regarding fire safety.**

Waste Disposal

B.49 HMOs occupied by separate and multiple households generate more waste than a single family. The Council are committed to reducing environmental crime. To do this it is important that the landlord of the HMO provides the occupants with the appropriate facilities for storing rubbish.

B.50 To encourage occupants to recycle waste, internal storage areas should be designed to enable occupants to segregate their waste into refuse and recyclables and to store it temporarily until it can be transferred to external bins.

B.51 Where provision for internal storage is included, occupants should be supplied with container(s) for the internal segregation of waste for recycling. Burnley Borough Council does not provide such containers.

B.52 Options that landlords may wish to consider are kitchen units with pull out drawers and separate containers. There are several such products on the market.

B.53 The containers described below should be able to be stored within the external boundary of each property. Container storage areas should be in a convenient position to enable the householder to wheel them to the kerbside for collection.

B.54 Occupiers are required to present their containers at the kerbside on collection day and return them to the storage area as soon as possible following collection.

Table 6 – Waste Disposal and Recycling

Number of Occupants	Refuse	Recycling Paper/Card	Recycling Glass, Cans, Plastic Bottles
1 to 4 people	1x 240 litre bin	White Sack	Blue box
5 to 8 people	2x 240 litre bin	White Sack	Blue box
9 to 12 people	3x 240 litre bin	White Sack	Blue box

B.55 If additional recycling facilities are required please contact Burnley Council's Streetscene Department for further advice on 01282 425011.

Appendix C - National, Regional & Local Policies

National Planning Policy Guidance

C.1 National planning policy exists in the form of the NPPF and a small number of other policy documents and written ministerial statements, supported by an online practice guidance covering a series of themes – See ministry of Housing, Communities and Local Government website:

<https://www.gov.uk/guidance/national-planning-policy-framework>

Local Plan Policy

Policy SP4: Development Strategy

1) Development will be focused on Burnley and Padiham with development of an appropriate scale also supported in the following main and small villages:

Settlement Hierarchy:

Tier	Category	Settlement	
1	Principal Town	Burnley	<p>Role & Function: Principal service centre for the Borough and home to the majority of the borough’s population and a town of a sub-regional importance for retail, leisure and public administration and services with excellent public and private transport links.</p>
			<p>Development Scale</p> <p>Housing: Large scale, major and a variety of smaller sites to deliver a comprehensive range of choice of types and tenures.</p> <p>Employment: Large scale, medium and a variety of smaller sites to deliver a comprehensive range of units for new and existing businesses and employment opportunities for new and existing residents.</p> <p>Retail: Sub regional centre for retailing and the principal retail destination for the borough. Town centre with defined Town Centre boundary and defined Primary Shopping Area and Primary and Secondary Frontages where new development will be concentrated including through a new allocation and by virtue of its size.</p>
2	Key Service Centre	Padiham	<p>Role & Function: A key service centre and public transport hub for the surrounding villages and rural areas and home to a significant proportion of the borough’s population.</p>
			<p>Development Scale</p> <p>Housing: Large scale, major and a variety of smaller sites to deliver a comprehensive range of choice of types and tenures.</p> <p>Employment: Large scale, medium and a variety of smaller sites to deliver a comprehensive range of units for new and existing businesses and employment opportunities for new and existing residents.</p> <p>Retail: Town centre with defined Town Centre boundary with a supporting role to Burnley in the retail hierarchy where by virtue of its smaller size, more modest development would be focussed.</p>
3	Main Village	Hapton Worsthorne	<p>Role & Function: Predominantly residential areas but with some local employment sites, which provide a limited but reasonable range of services to the local community and local businesses and have good public and private transport links to larger towns.</p>
			<p>Development Scale</p>

4	Small Village	Clow Bridge Mereclough Lane Bottom Hurstwood Overtown Holme Chapel Walk Mill	<p>Housing: Medium and small scale sites to deliver quality and choice and modern adaptable stock for existing and new residents and to deliver aspirational housing and support and enhance existing service provision.</p> <p>Employment: Small scale schemes to provide opportunities for new and existing businesses and employment opportunities for new and existing residents.</p> <p>Retail: No defined centre – local shops to serve local community</p> <p>Role & Function: Predominantly residential areas but with some small scale local/rural employment sites, which provide a basic range of services to the local community and local businesses and have reasonable public and private transport links to larger towns and villages.</p>
			<p>Development Scale</p> <p>Housing: Small scale schemes to deliver quality and choice and modern adaptable stock for existing and new residents and support and enhance existing service provision.</p> <p>Employment: Limited small scale schemes to provide opportunities for new and existing rural businesses or rural diversification and employment opportunities for new and existing residents.</p> <p>Retail: No defined centre – local shops or facilities selling basic convenience goods to serve local community.</p>

Development Boundaries and development within them

2) In addition to those sites specifically allocated for development in policies elsewhere in this Plan, new development will be supported within the Development Boundaries as defined on the Policies Map where it is of an appropriate type and scale bearing in mind the role of the settlement in the hierarchy and where it satisfies the following overarching criteria and other relevant policies of this Plan:

- a) It makes efficient use of land and buildings;
- b) It is well located in relation to services and infrastructure and is, or can be made, accessible by public transport, walking or cycling; and
- c) It does not have an unacceptably detrimental impact on residential amenity or other existing land users.

3) In considering the acceptability of development proposals on unallocated sites within these Development Boundaries, consideration will also be given to:

- a) Whether schemes appropriately re-use existing buildings and infrastructure; or
- b) Whether schemes make use of previously-developed land that is not of recognised high biodiversity value.

Development in the Open Countryside

4) The open countryside is defined as land beyond any Development Boundary. In the open countryside development will be strictly controlled.

Coalescence

5) Development proposals should not lead to the coalescence of settlements.

Policy SP5: Development Quality and Sustainability

The Council will seek high standards of design, construction and sustainability in all types of development. Proposals will be expected to address the following minimum requirements, as appropriate to their nature and scale:

1) Energy Efficiency

- a) Incorporate measures to minimise energy and water consumption;
- b) A BREEAM Assessment must be carried out for all non-residential development with a floor space above 1,000m² and a rating of 'Very Good' or better will be expected;
- c) Seek opportunities for on-site energy supply from renewable and low carbon energy sources; and
- d) Seek opportunities to contribute to local and community-led renewable and low carbon energy initiatives.

2) Design and Layout

- a) Respect existing, or locally characteristic street layouts, scale and massing;
- b) Contribute positively to the public realm and avoiding unnecessary street clutter;
- c) Maximise the benefits of any waterfront locations, and at canalside locations optimising views and natural surveillance of the canal and opportunities for public access to it;
- d) Provide for new open space and landscaping which enhances and/or provides mitigation against loss of biodiversity and assists with the physical and visual integration of new development;
- e) Have respect for their townscape setting and where appropriate, landscape setting;
- f) Be orientated to make good use of daylight and solar gain;
- g) Ensure there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users, including by reason of overlooking;
- h) Not result in unacceptable conditions for future users and occupiers of the development; and
- i) Provide adequate and carefully designed storage for bins and recycling containers. These should be located or designed in a way which is both convenient and safe for occupants and supports the quality of the street scene.

3) Key Gateways

- a) Where development is at or highly visible from a Key Gateway identified on the Policies Map, it should address in its design, orientation and layout, the Key Gateway and its particular nature/location and include where appropriate:
 - i) a landmark building;
 - ii) landmark tree planting;
 - iii) public art (can be incorporated into the public realm); or
 - iv) a carefully designed gentle transition from countryside to town.

4) Materials

- a) **Use a palette of high quality materials which are appropriate** to the local context in all respects including: type, colour, texture, element size and laying pattern and avoid unnecessary and excessive patterning;
- b) **Where contemporary materials are appropriate, use these in manner which respects the established character of the locality; and**
- c) **Wherever practical, use low embodied energy materials, including materials that are sourced locally or involve the appropriate reuse of existing resources through the conversion of existing buildings or reuse of demolished structures.**

5) Accessibility

- a) **Seek to incorporate and promote sustainable methods of transport, including cycle routes, walking routes and good links to public transport; and**
- b) **Be inclusive and accessible to all and promote permeability by creating places that connect with each other and with existing services and are easy to move through.**

6) Security

- a) **Be designed with the safety and security of occupants and passers-by in mind, helping to reduce crime and the fear of crime including through increasing the opportunity for natural surveillance.**

Policy HS4: Housing Developments

- 1) **New housing developments should be high quality in their construction and design in accordance with Policy SP5.**
- 2) **For schemes of more than 50 dwellings, planning applications should include a phasing plan which should include details of the proposed phasing, temporary works and security measures which should demonstrate an acceptable standard of development and amenity for early residents and existing adjacent residents.**
- 3) **In addition, the Council will require new housing developments to:**
 - a) **Provide private and functional outdoor space for occupants. For flats and mews/courtyard developments, outdoor space may be shared;**
 - b) **Be well laid out to ensure habitable rooms²³ receive adequate levels of daylight; and**
 - c) **Provide appropriate levels of privacy and outlook for occupants and for existing adjacent residents. Unless an alternative approach is justified to the Council’s satisfaction, the following privacy distances will apply:**

Type	Situation	Minimum distance
Single storey and two storey dwellings:	Between facing windows of habitable rooms	No less than 20 metres
Single storey and two storey dwellings:	Where windows of habitable rooms face: ²⁴	No less than 15 metres

²³ Habitable rooms are those in a dwelling house other than landing bathrooms toilets and utility rooms

²⁴ Windows within a 45° angle of each other

	<ul style="list-style-type: none"> • a blank gable; or • other windows serving non-habitable rooms. 	
Three storey dwellings/apartments or where levels creates a significant difference in heights	For each additional storey above 2 storeys or where levels creates a significant difference in heights	As above plus an additional set back of 3 metres

Adaptable Homes

- 4) For schemes over 10 dwellings, 20% of dwellings should be designed to be adaptable to support the changing needs of occupiers over their lifetime, including people with disabilities complying with the optional technical standards of Part M4(2) of the Building Regulations 2010.

Open Space provision in new housing development

- 5) New housing developments will be required to provide or contribute to public open space provision as follows.
- a) Proposals for 50 dwellings or more will be expected to incorporate recreational public open space to a minimum standard of 0.3 Ha per 50 dwellings or a proportion thereof, in accordance with the Fields in Trust Standard of 2.4 hectares per 1,000 population; or exceptionally, provide or pay a contribution in lieu of part or all of the open space provision for the creation or benefit of existing public open space nearby.
 - b) Proposals for new housing developments of between 10 and 49 dwellings will be expected to provide public open space in line with the above standard. Where such a public open space is impracticable or unusable the Council will negotiate with the developer the payment of a commuted sum for the benefit of existing Public open space nearby.
 - c) Proposals for new housing development of between 5 and 9 dwellings will be expected to provide the payment of a commuted sum in accordance with the Council’s published schedule of fees for the benefit of existing or proposed public open space nearby.
- 6) As part of the overall recreational space requirement referred to in 5) above, developers of housing sites comprising predominantly family housing, will be required to provide 0.09 Ha (0.23 acres) of equipped children’s play space per 50 dwellings, or proportion thereof.
- 7) Where public open space is provided in new housing development, it must normally be a single plot with a minimum functional size of 1,200m² and be overlooked by adjoining properties. It should landscaped to a high standard of design and the space must be usable, and easily accessible by all residents, including those with disabilities, and provide a safe place to play and relax whilst not causing a nuisance to nearby residents. The type of open space should have regard to the local needs and standards for all types of open space set out in the Council’s Green Spaces Strategy.
- 8) Landscaping works and the provision of play equipment and its future maintenance is the responsibility of the developer; where public open space is provided on-site, the developer will be expected to fund its maintenance for a period of at least 20 years, or put in place a sustainable scheme of management;
- 9) Open space provision should be designed to deliver multifunctional benefits in particular by:

- a) Providing and contributing to a wider network of green infrastructure as set out in Policy SP6;
- b) Working with and retaining important existing landscape character, features, trees and habitats in accordance Policy NE1, 3 and 4;
- c) Contributing to the provision of Sustainable Drainage Systems in accordance Policy CC5.
- 10) Public open spaces provided under this policy will subsequently be protected as Open Space under Policy NE2.

Policy TC2 Development within Burnley and Padiham Town Centres

1) The Council will seek to maintain and enhance the retail and service function of Burnley and Padiham Town Centres, the boundaries of which are defined on the Policies Map. Main Town Centre Uses which accord with other relevant policies elsewhere in the Plan will be supported in the following locations:

- a) Proposals for retail development (A1 Use Class) will be supported within the Primary Shopping Area for Burnley or within the Town Centre of Padiham.
- b) Proposals for comparison retailing (A1 Use Class) should normally be located within the Primary Shopping Area of Burnley or within the Town Centre of Padiham.
- c) Proposals for convenience retailing (A1 Use Class) will be supported within the Town Centres of Burnley and Padiham.
- d) Subject to the limits set out in Policy TC3, proposals for other retail uses (A2-A5) and other main town centre uses will be supported within the Town Centres of Burnley and Padiham.

Sequential Test²⁵

2) Proposals for comparison retailing (A1 Use Class) that do not comply with 1) b) due to a lack of suitable sites are required to be located in accordance with the following sequential test:

Burnley:

- a) Edge of Centre locations (300m of the Primary Shopping Area); other Town Centre locations; edge of centre locations (300m of the Town Centre Boundary); out of Centre.

Padiham:

- b) Edge of Centre locations (300m of the Town Centre Boundary); out of Centre.

3) Proposals for convenience and other retailing (A1 to A5 Use class) and other main town centre uses are required to be located in Town Centres. Where suitable sites are not available, these are required to be located in accordance with the following sequential test: Edge of Centre locations (300m of the Town Centre boundary); out of Centre.

4) When considering the sequential tests above, preference will be given to accessible sites that are well connected to the Primary Shopping Area /Town Centres. Applicants will be expected to demonstrate flexibility on issues such as format and scale.

²⁵ This requirement does not apply to small scale rural or local uses (Policies EMP4 and EMP5). Separate policy provisions also apply in District Centres - Policy TC6 and for uses in the Weavers' Triangle - Policy TC5

Impact Assessment

5) Proposals for main town centre uses which do not comply with 1) a) to d) above, or are not specifically allocated for town centre uses, should be supported by an Impact Assessment addressing the following:

- a) The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- b) The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

6) The requirement for an Impact Assessment will apply to proposals of the following size/type:

Retail:

- i) **Burnley – 1,000 sq.m gross and above**
- ii) Padiham – 500 sq.m gross and above

Other Main Town Centre Uses:

- iii) 2,500 sq.m and above

7) Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors set out in 5 a) and b), it will be refused.

Residential

8) Proposals for residential development, including new build, conversion or change of use on appropriate sites within the Town Centres will be considered favourably subject to meeting the other policy requirements of the Plan where:

- a) Within Burnley Primary Shopping Area and within Padiham Town Centre these are located on upper floors;
- b) In Burnley Town Centre outwith the Primary Shopping Area, they do not lead to a concentration of residential uses which undermines the overall mix of main town centres uses.
- c) The development does not prejudice the lawful operating conditions or viability of adjacent land uses.

Policy NE5: Environmental Protection

1) Development proposals, as appropriate to their nature and scale, should demonstrate that environmental risks have been evaluated and appropriate measures have been taken to minimise the risks of adverse impacts to air, land and water quality, whilst assessing vibration, heat, energy, light and noise pollution both during their construction and in their operation.

Air Quality

2) The Council will seek to ensure that proposals for new development will not have an unacceptable negative impact on air quality and will not further exacerbate air quality in AQMAs or

contribute to air pollution in areas which may result in an AQMA. Applicants should consult with the Council's environmental health service to establish if the proposed development is located within an AQMA.

- 3) An air quality assessment will be required where a development may result in a significant increase in air pollution, or lead to a significant deterioration in local air quality resulting in unacceptable effects on human health, local amenity and/or the environment. Assessments shall address the following:
 - a) The existing background levels of air pollution;
 - b) Existing developments and sources of air pollution throughout the borough and the cumulative effect of planned developments; and
 - c) The feasibility of any mitigation measures that would reduce the impact of the development on local air quality.
- 4) The Council will support and promote the provision of charging points for ultra-low emission vehicles.

Light Pollution

5) New lighting schemes should be appropriate to the type of development and its location. Proposals for outdoor lighting should not have an unacceptable adverse impact by reason of light spillage or glare on neighbouring building/uses, the countryside, highway safety or biodiversity in line with Policy NE4. Where appropriate, a light impact assessment will be required as part of the application submission.

Noise Pollution

6) Developments generating noise which is likely to create significant adverse impacts on health and quality of life and cannot be mitigated and controlled through the use of conditions or through pre-existing effective legislative regimes, will not be permitted.

Contaminated Land

- 7) On sites that are known to be or potentially contaminated, applicants will be expected to carry out an appropriate survey by a suitably qualified and experienced person.
 - a) A Phase 1 Desk Study will be required for any application which results in a sensitive end use on a site where such a site is or may be contaminated by virtue of previous users.
 - b) A Phase 2 Study will be required if the site is known or identified as having high levels of contamination. A Remediation Strategy shall be provided by the developer to bring the site to an acceptable level of condition which is relevant to the proposed use.

Unstable Land

- 8) On sites that are known to be or where there is reason to suspect them to be unstable and the risk of instability has the potential to materially affect either the proposed development or neighbouring uses/ occupiers, applicants will be expected to carry out an appropriate assessment by a suitably qualified and experienced person to demonstrate that the proposed development is safe and stable or can be made so. This should:
 - a) Include a preliminary assessment including a desk based survey of the previous uses of the site and their potential for instability in relation to the proposed development; and

- b) Where the preliminary assessment establishes that instability is likely but does not provide sufficient information to establish its precise extent or nature, site investigation and risk assessment must be carried out to determine the standard of remediation required to make the site suitable for its intended use.**
- 9) Where remediation, treatment or mitigation works are considered necessary to make the site safe and stable and/or to protect wider public safety, conditions or obligations will be imposed to ensure appropriate works are completed prior to the commencement of development or in accordance with an alternative programme agreed.**

Water Quality

- 10) Development will not be permitted where it would have an adverse effect on the quality or quantity of groundwater resources or watercourses and water bodies.**



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