



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

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Contact:

Policy & Environment
Economy and Growth
Town Hall
Burnley
BB11 9SA

E-mail: localplan@burnley.go.uk

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1 Introduction

1.1 Purpose and Scope of the SPD

1.1.1 This Supplementary Planning Document (SPD) has been prepared by Burnley Council as part of its planning policy framework. SPDs elaborate upon the policy and proposals in Local Plans but do not have their formal statutory 'Development Plan' status. SPDs cannot introduce new local plan policy. Planning decisions by law must be made in accordance with the local plan (the development plan) unless material considerations indicate otherwise. SPDs are material considerations in the consideration of relevant development proposals, as are changes to national policy which postdate the local plan; however, the Local Plan remains the starting point.

1.1.2 The SPD was adopted by the Council on 6 April 2022.

1.1.3 The SPD relates to proposals for Houses in Multiple Occupation (HMO) and small flats (including studios and self-contained bedsits).¹ 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 applicable.

1.1.4 The SPD addresses those issues that are unique or of particular relevance to HMOs and small flats, rather than the full scope of all the Local Plan policies which may apply.^{2, 3} It has been prepared to assist property owners, planning applicants, planning officers and elected councillors in preparing, commenting on and determining planning applications.

1.1.5 The SPD guidance is limited to the following uses and 'use classes':

- Change of use of a non-domestic building to a small HMO (between 3 and 6 unrelated individuals) (Use Class C4)
- Change of use of a non-domestic building to shared housing occupied by more than 6 individuals (*Sui Generis* Larger HMO)
- Change of use of a dwellinghouse (Use Class C3) to shared housing occupied by more than 6 individuals (*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)

1.1.6 Whilst it does not cover residential institutions (Use Class 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.

¹ For the purposes of this SPD a small flat will be a flat with a gross internal floor area of less than 39m

² The text of the most relevant policies of Burnley's Local Plan can be seen in Appendix C

³ The wider policies that may apply may include policies on design, listed buildings, conservation areas, extensions, and energy efficiency.

1.1.7 It also explains the role of the HMO licencing regime which is a separate process that relates to HMOs which may or may not require planning permission.

1.2 Houses in Multiple Occupation (HMOs)

1.2.1 HMOs form part of the borough's privately rented housing provision, contributing to people's housing choices. This form of accommodation is generally more affordable and flexible than other housing types and therefore suitable for younger people and other households that are not living as families. As well as reducing housing costs for individuals, sharing homes can also have positive social benefits for occupiers, helping individuals, especially young people, to form new networks and relationships.

1.2.2 Analysis of planning applications in the borough between 2019 and 2022 shows an increase in the numbers of planning applications for HMOs and some concerns have been raised about the quality of accommodation they provide and their concentration within certain locations.

1.2.3 Due to the nature of the accommodation that they provide, unless they are properly planned and managed, HMOs can create issues, including:

- **Reduced Housing Choice:** The Local Plan seeks to provide a mix of housing types and tenures to meet the needs of all households. An oversupply of HMOs can create an imbalance in housing type and tenure, reducing the supply and affordability of homes for families to rent or to purchase their first home.
- **Detriment to visual amenity/character:** resulting from additional waste, other outside storage and parking.
- **Noise and disturbance:** resulting from the intensification of the residential use and/or the lifestyle of occupants.
- **Overlooking and loss of privacy:** resulting from revised internal layouts and intensification of use.
- **Highway safety concerns:** resulting from additional on and off-street parking requirements.
- **Additional demands on local services and infrastructure:** resulting from a higher concentration of adults compared to a typical family home or household.
- **Reducing community cohesion:** resulting from and lack of interaction and/or high turnover of occupants.

1.2.4 There are currently (December 2021) 31 licensed HMOs in the Borough. Further Information on the licensing of HMOs in Burnley is set out in Section 3.4.

1.3 Small Flats, Studios and Self-Contained Bedsits

1.3.1 There has been a significant increase in the 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 living conditions for future occupiers including size, layout and facilities; adequate natural daylighting and outlook; external amenity space; refuse storage; and car parking provision.

1.3.2 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. MHCLG funded research⁴, published in July 2020, concluded that accommodation created under permitted development tended to be of worse quality than that built with full planning permission. Such accommodation was found to be more likely to be below acceptable space and natural light standards and lacking in outdoor amenity space.

⁴ Research into the quality standard of homes delivered through change of use permitted development rights
MHCLG (July 2020)

2 Policy Context

2.1 National Policy and Guidance

2.1.1 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.

2.1.2 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.

2.1.3 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.

2.1.4 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."

2.1.5 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."

2.1.6 The National Design Guide⁵ identifies well designed homes as one of the ten characteristics of good design as set out in the NPPF. It advises that new homes should, regardless of type of tenure, be fit for purpose and provide a good standard and quality of internal space including adequate room sizes, storage, daylight, sunlight and ventilation. They should minimise sound pollution, have good air quality and should provide safe and functional amenity space(s). Waste storage, management and collection should also be given careful attention.

2.1.7 The National Model Design Code⁶ sets a baseline standard for quality and practice which local planning authorities are expected to take into account when determining applications. The document expands on the ten characteristics of good design set out in the National Design Guide. In relation to new homes, it states that they should be functional, accessible, inclusive and sustainable; provide attractive environments that support the health and wellbeing of their users; are adequate in size, fit for purpose and adaptable; and allow for easy operation and servicing.⁷

⁵ [National design guide.pdf \(publishing.service.gov.uk\)](#)

⁶ [National Model Design Code 2021 - GOV.UK \(www.gov.uk\)](#)

⁷ These form part of the national planning practice guidance

2.2 Local Policy

2.2.1 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.

2.2.2 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 makes efficient use of land and buildings; it is well located in relation to services and infrastructure and is, or can be made, accessible by public transport, walking or cycling; it does not have an unacceptably detrimental impact on residential amenity or other existing land users; and it appropriately reuses existing buildings and infrastructure.*

2.2.3 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; having respect for its townscape setting; ensuring there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users, including by reason of overlooking; not resulting in unacceptable conditions for future users and occupiers of the development; and ensuring the provision of adequate and carefully designed storage for bins and recycling containers.*

2.2.4 Similarly, 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 on a range of matters relating to all housing developments, to ensure that developments provide a good level of amenity for future occupiers including outdoor amenity space, privacy, outlook, daylight; and for larger schemes, requirements for adaptable homes and public open space.

2.2.5 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 designated heritage assets (HE2).

2.3 Making a Planning Application

2.3.1 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:

<https://burnley.gov.uk/planning/development-control/>

<https://burnley.gov.uk/planning/planning-permission/planning-step-by-step/>

3 What is a House in Multiple Occupation (HMO)?

3.1 The Housing Act

3.1.1 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 Order⁸ for planning purposes in 2010.

3.1.2 Under the Housing Act 2004⁹, a building, or part of a building, is considered to be a 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'**.

3.1.3 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.

3.1.4 The Act also defines types of living accommodation that are not HMOs.¹⁰ 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.

3.2 Planning Legislation

3.2.1 Planning legislation defines two different types of HMO as set out below. Until 2010, HMOs were either included within the definition and use class of dwellinghouses (C3) or were *sui generis* i.e. not in any identified use class and therefore required planning permission.

Use Class C4 (i.e. small HMOs)

3.2.2 In 2010, changes to the General Permitted Development Order (GPDO)¹¹ introduced a new Use Class C4 (Houses in Multiple Occupation), which relates to:

- the "use of a dwellinghouse by not more than six residents". Circular 08/2010 Annexe A described the new C4 class as broadly covering small, shared houses or flats occupied by between three and six unrelated individuals, as their main residence, and who share basic amenities.

⁸ Town and County Planning (Use Classes) Order 1987 (as amended).

⁹ Section 254 of the Housing Act (2004)

¹⁰ See Schedule 14 of the Housing Act (2004)

¹¹ The Town and Country Planning (General Permitted Development) Order 1995 (as amended)

3.2.3 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*.

3.2.4 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 conditions
- 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)

3.2.5 Planning permission **is** currently required for the change of use of a premises falling outside a Class C3 dwellinghouse (i.e. a non-residential building) into a Class C4 small HMO.

3.2.6 Planning permission **is not** currently required for the change of use of a Class C3 dwellinghouse (including a flat) into a single small HMO (Use Class C4). That change of use can be made under permitted development rights as set out within the General Permitted Development Order 2015 (Class L in Part 3 to Schedule 2). Planning permission would be required if these permitted development rights were removed through an Article 4 Direction or a previous planning permission.

3.2.7 Whether or not planning permission is required for the change of use, it may be required for any external physical works to facilitate it. Where non-residential buildings are being converted, or flats converted or created; planning permission will usually be required for external works such as changes to window or door styles and materials, new window and door openings, external staircases, alterations to shopfronts and extensions. For information on how and where to seek advice on the need for planning permission, please see the Council's website.¹² For listed buildings, all internal and external alterations which affect the buildings special interest may also require listed building consent. Building Regulations approval may also be required for internal and external works.¹³

Sui Generis (i.e. larger) HMOs

3.2.8 Larger HMOs are typically defined as having more than 6 unrelated residents sharing basic amenities such as a kitchen or bathroom.

3.2.9 For planning purposes such HMOs are regarded as a '*Sui Generis*' use (meaning that they do not fit into any of the standard Use Classes). Planning permission **is** therefore required for the creation of this type of HMO.

3.2.10 In addition, the expansion of an existing large HMO through the increase in number of bedrooms or occupants may require also planning permission (e.g. if a previous planning permission included the number of residents, or other restrictive conditions were applied).

¹² <https://burnley.gov.uk/planning/planning-permission/do-i-need-planning-permission/>

¹³ <https://burnley.gov.uk/planning/building-control-pennine-lancashire/>

3.3 Article 4 Directions: Extending the Control of HMOs

3.3.1 An Article 4 Direction, made under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), can be used by local planning authorities to remove specified permitted development rights in part or all of their area, thereby requiring planning permission for developments that would otherwise be permitted development.¹⁴ These are a 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 dwellinghouse (Use Class C3) to a small HMO (Use Class C4)).

3.3.2 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”.

3.3.3 The Planning Practice Guidance (PPG) “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 states that the potential harm that the Article 4 direction is intended to address, should be clearly identified, and there will need to be a particularly strong justification for the withdrawal of permitted development rights across a wide area (for example those covering a large proportion of or the entire area of a local planning authority).

3.3.4 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, would bring these into the planning system to allow consideration of the proposed development against relevant planning policies.

3.3.5 In the future, the Council may consider the need for an Article 4 Direction(s) in order to better manage the creation of small HMOs and their impacts on the amenity of certain areas.

3.4 HMO Licensing

3.4.1 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’¹⁵ 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 a premises is licensed to operate an HMO and this may need to be applied for separately.

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

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

¹⁴ 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://burnley.gov.uk/planning/planning-permission/do-i-need-planning-permission/article4/>

¹⁵ [Houses in Multiple Occupation and residential property licensing reform: Guidance for Local Housing Authorities’ October 2019](#)

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- 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.

3.4.4 The Council's website includes details about HMO licensing and the license application process: <https://burnley.gov.uk/housing/private-rented-sector/house-in-multiple-occupation-hmos/>

4 How Will Planning Applications for HMOs and Small Flats be Considered?

4.1 Overview

4.1.1 It is important that HMOs and small flats can continue to be provided at appropriate levels in in appropriate locations in a way which supports housing choice and promotes mixed and inclusive communities; whilst safeguarding against unacceptable impacts.

4.1.2 As set out in Section 1.1, the focus of this SPD is on conversions and changes of use rather than new build schemes. The principles and guidance would still be relevant to new build schemes, but a wider range of considerations would also be relevant. The Local Plan includes a range of policies that may be relevant to specific HMO and small flats proposals, depending on their scale and location, but this SPD focuses on those issues that are unique to or of particular relevance to HMOs and small flats and where additional guidance on the application of Local Plan policy is considered helpful.

4.1.3 These policies include SP4, SP5, HS4, TC2 and 3 and IC3, CC4 and CC5 and the following clauses which seek to ensure that developments:

SP4 1): deliver a comprehensive range of choices of types and tenures

SP4 2(c): do not have an unacceptably detrimental impact on residential amenity or other existing land users

SP5 2(a): respect existing, or locally characteristic street layouts, scale and massing

SP5 2(e): have respect for their townscape setting and where appropriate, landscape setting

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(h): do not result in unacceptable conditions for future users and occupiers of the development

SP5 2(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.

HS3 4): for housing schemes of 0.4 hectares or for 10 units or more should consider a mix of housing types....The precise mix should be informed by site specific considerations and the need to increase the quality and choice across the Borough

HS4 2(a): provide private and functional outdoor space for occupants. For flats and mews/courtyard developments, outdoor space may be shared

HS4 2(b): are well laid out to ensure habitable rooms receive adequate levels of daylight

HS4 2(c): provide appropriate levels of privacy and outlook for occupants and for existing adjacent residents

TC2 8(b): for residential use in Burnley Town Centre outwith the Primary Shopping Area do not lead to a concentration of residential uses which undermines the overall mix of main town centre uses

TC2 8(c): do not prejudice the lawful operating conditions or viability of adjacent land uses

NE5 6): 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

CC4 1): do not result in increased flood risk from any source or other drainage problems, either in the development site or elsewhere

CC5 3): that are major developments, incorporate SuDS

IC3 2): for residential schemes will be expected to provide a minimum number of parking spaces per new dwelling depending on their type and location

IC3 3): for residential schemes will be expected to make adequate provision for cycle parking.

4.1.4 In order to satisfy these policy criteria, the following issues should be addressed:

4.2 Housing Mix

4.2.1 The Local Plan sets out the objective of providing a well-integrated mix of high quality aspirational and affordable homes of different types in tenure to meet the needs of a wide range of households support economic growth.¹⁶ It outlines the need to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community; and to diversify the current stock away from terraced properties towards larger more aspirational detached and semi-detached dwellings. It sets out indicative housing mix proportions for the plan period based on evidence of need and demand from the Strategic Housing Market Assessment.¹⁷ No specific target is mentioned for 1 bedroomed flats, but the overall proportion for flats is 10%. A 0% target is set for bedsits/studios/room only (which would include HMOs).¹⁸

4.2.2 Informed by this evidence, Policy HS3 details how the density and mix of individual proposals will be assessed so that each site can contribute, as appropriate, to meeting the overall borough-wide mix. It is the achievement of the borough-wide mix that is important and Policy HS3 is only one part of this mechanism. Policy SP4 Development Strategy is also relevant.

4.2.3 As part of the ongoing monitoring of the Local Plan, the Council collects data on planning permissions and completions by type to assess the effectiveness of Policy HS3 in helping to deliver of the overall mix sought. Should it become apparent that further provision of HMOs or small flats would result in an unwelcome imbalance of house types and sizes across the borough or within certain areas (see also section 4.3 and 4.6), this will be considered as part of the 'planning balance' when determining planning applications, alongside the consideration of the individual impact of proposals, and schemes may be refused.

Policy SP4: Development Strategy, seeks to deliver a choice of types and tenures and Policy HS3: Housing Density and Mix states that all housing schemes of 0.4 hectares or for 10 units or more should consider a mix of housing types. The precise mix should be informed by site specific considerations and the need to increase the quality and choice across the Borough.

¹⁶ Objective 2 and para 5.1 32.

¹⁷ <https://burnley.gov.uk/planning/planning-policies/evidence-base/strategic-housing-market-assessment/>

¹⁸ The overall targets from the SHMA are set out in Table 3 of the Local Plan, page 85

4.3 Balance of Residential Uses within Burnley Town Centre

4.3.1 Changes to the balance of uses within Burnley Town Centre created by proposals for HMOs and small flats can have a detrimental impact on the vitality and viability of the Town Centre.

4.3.2 The Local Plan defines a Town Centre for Burnley within which is a defined Primary Shopping Area 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.¹⁹

4.3.3 Policy TC3 sets out the level of non-retail uses that will be permitted in the Primary and Secondary Frontages. Policy TC2 8) allows proposals for residential uses (including HMOs) where they are located on upper floors and would not prejudice the operating conditions or viability of adjacent land uses.

4.3.4 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 8) b), however, the Council will not support planning applications for residential uses (including HMOs) where the development would lead to a concentration of residential uses which would undermine the overall mix of main town centre uses.

4.3.5 An unacceptable concentration would be considered to occur where:

- More than 10% of properties within a 100m radius of the application property are already in residential use. This includes properties where the upper floors are in residential use. The radius of 100m will be measured from the centre of the boundary of the application property. If any part of a building, or its curtilage, falls within the 100m radius it will be included.
- Exceptions may be made:
 - Where the concentration of residential uses within the 100m radius is such that restricting further changes of use would have little impact on the mix of town centre uses; or
 - Where it is demonstrated that there is no reasonable long-term demand for the existing property in its continued use, taking into account such factors as the location, size, character and form of the existing building. Loss of town centre offices would need to take into account Local Plan Policy EMP4: Office Development.

4.3.6 In September 2020, changes to the Use Classes Order introduced a single 'Commercial, Business and Service' use (Class E) which combines a number of the previous retail, office, non-residential institutions, assembly and leisure uses classes including shops, restaurants, offices, gyms and nurseries.²⁰ This has reduced the Council's ability to control some changes of use that will result in the loss of retail uses within the Primary Shopping Area of the Town Centre.

4.3.7 In 2021, changes to permitted development rights created a new class of permitted development, Class MA, which, subject to a light touch 'Prior Approval' process and with certain limitations, allows the change of use of vacant Class E properties of up to 1500m² to residential use.²¹

¹⁹ 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.

²⁰ Town and Country Planning (Use Classes) Order 1987 (as amended)

²¹ General Permitted Development (England) Order 2015 (the 'GPDO') (from August 2021)

Policy TC2: Development within Burnley and Padiham Town Centres requires at 8b) 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 at 8c) does not prejudice the lawful operating conditions or viability of adjacent land uses.

4.4 Visual Amenity, Impacts and Living Conditions

4.4.1 The majority of HMOs and small flats in Burnley are formed through the conversion of existing buildings. The Local Plan requires all development to be of a high standard of design and respect its setting and locally characteristic street layouts, scale, massing, detailing and use an appropriate palette of materials. The physical alterations to buildings to facilitate the conversion to HMOs and small flats can have a significant impact on a host building and the wider street scene and will need to be carefully considered.

4.4.2 Whilst there is no minimum size for a building to be considered suitable for conversion, the Local Plan requires all schemes for HMOs and small flats to provide an acceptable living environment for future occupiers. Internal layouts should ensure adequate levels of privacy and outlook, natural daylight and ventilation.

4.4.3 Similarly, the Local Plan requires that schemes must not have an unacceptably detrimental impact on the amenity of neighbouring occupiers or adjacent land users.

4.4.4 The Local Plan was written to the 2012 version of the NPPF. Updated versions of the NPPF were issued in 2018, 2019 and 2021. The 2018 version added reference to ‘healthy living conditions’ which is retained in the 2021 version (Para 119) and states that “planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.”

4.4.5 The 2021 version of the NPPF also significantly strengthened policies towards design. It makes clear that creating high quality buildings and places is fundamental to what the planning and development process should achieve. The National Design Guide (2021 version) and National Model Design Code (2021) are intended to illustrate how well-designed places that are beautiful, healthy, greener, enduring and successful can be achieved in practice.

4.4.6 Whilst these policies changes and publications post-date the Local Plan, they are consistent with its approach and reinforce the importance of achieving high quality design through the planning system and its role in protecting and improving physical and mental health. Together these changes are a material consideration which can be seen to add weight/strengthen various aspects of SP5 clause 2.

Size, Layout and Facilities

4.4.7 There are no specific minimum space standards prescribed for HMOs or small flats in the Local Plan. The national ‘Technical Housing Standards: National Described Space Standard’²² (NDSS) sets out minimum requirements for internal space standards within new dwellings at defined levels of occupancy as well as floor areas and dimensions for key parts of the home including bedrooms, storage and floor to ceiling heights. Whilst these national standards are not mandatory or adopted through the Local Plan, they are a useful guide to ensuring comfortable living space for developments

²² Technical Housing Standards: Nationally Described Space Standard (2015) sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height.

of small flats. Accordingly, schemes which fail to meet them may be judged to not meet the requirements of Policy SP5 2) h) “to provide acceptable living conditions for future occupiers” and may give rise to other planning issues associated with the overdevelopment of sites.

4.4.8 In 2018, the Council adopted ‘**Burnley Council’s Standards for Houses in Multiple Occupation**’ for all HMOs (both licensable and non-licensable).²³ These are reproduced in Appendix B of this SPD. They include minimum space standards for bedrooms kitchens and dining/living rooms.

4.4.9 Whilst these standards were not developed as planning policy, they were included in the consultation draft of this SPD for comment and they do provide appropriate standards for ensuring that HMO proposals comply with the Local Plan, in particular Policy SP5 2) h). Therefore, where these standards relate to matters within planning control, planning applications for HMOs are expected to meet them. A failure to meet them in full would not automatically be a reason for refusal of planning permission, providing that an alternative approach can be justified to the Council’s satisfaction. As with developments of small flats, schemes which fail to meet these standards may be judged to not meet the requirements of Policy SP5 2) h) and may give rise to other planning issues associated with the overdevelopment of sites.

4.4.10 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 some or all of the requirements would result in harm to heritage significance which cannot be outweighed by public benefits. However, the accommodation must still be of a satisfactory standard and if this cannot be achieved without unacceptable and unjustified harm to the heritage asset, schemes are likely to be refused.

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

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

Basement and Roof Space Accommodation

4.4.13 Basement and roof space accommodation can often provide unsatisfactory living conditions in terms of outlook and daylight. Basement rooms can also present issues in terms of flood risk – see 4.5. Basements may be most suitable for storage or communal facilities such as laundry/utility rooms or gyms.

4.4.14 Occupiers of a HMO are likely to spend more time in their bedrooms than occupants of single household accommodation and as such HMO bedrooms served only by rooflights that face the sky are not considered to provide a reasonable standard of outlook. In the case of small flats, rooflights that face the sky are also discouraged, but may be acceptable where other habitable rooms within the property are available and are served by windows that provide appropriate standard of outlook.

Drying Areas

4.4.15 HMOs should provide a designated area for drying laundry. Where it is not reasonably possible to provide an outside drying area, internal space should be allocated for drying clothing.

4.4.16 A lack of appropriate drying facilities can exacerbate condensation and damp within properties, particularly when combined with poor ventilation, and this can have a detrimental impact

²³ <https://burnley.gov.uk/housing/private-rented-sector/house-in-multiple-occupation-hmos/burnleys-hmo-standards/>

on health. Furthermore, due to the nature of the use, individual occupants of an HMO will have less overall control of the laundry arrangements and ventilation of the property as a whole.

Noise

4.4.17 The development of HMOs and small flats has the potential for the transmission of noise, internally and with adjoining properties. This is particularly relevant when considering the conversion of semi-detached or terraced properties, properties in narrow streets or densely developed areas where the potential impact is likely to be more concentrated.

4.4.18 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 nuisance. In some circumstances a condition seeking sound reduction measures may be attached to a planning permission for new HMO development, exclusive of any building regulations requirements.

4.4.19 The semi-independent living style of HMO residents means they are likely to spend more time in their individual bedrooms. This is likely increase in noise levels, as each occupant uses their own TV, plays music etc. Kitchen facilities are also likely to be in use for longer periods than in a single household. Noise generated within a HMO can be transmitted through party walls to adjoining neighbours and between the individual rooms of the HMOs. This likely increase in noise could lead to unacceptable impacts on the living conditions of neighbours or residents. Similar issues may occur in schemes involving a number of small flats.

4.4.20 In all cases, in order to reduce the potential for noise transfer both internally and between separate dwellings, care should be taken with the positioning and relationship of rooms. In particular:

- HMOs and small flats should be designed so that rooms with a similar use are placed next to and above one another (stacking) wherever possible, to avoid living and sleeping spaces sharing common/party walls, floors and ceilings. This includes avoiding the positioning of living rooms, kitchens or bathrooms adjacent to bedrooms in neighbouring properties/flats;
- Non-habitable rooms such as hallways, corridors and storage space should be used as noise buffers to adjoining properties or individual flats wherever possible; and
- Layouts should be planned to limit the transmission of airborne and impact sound from communal spaces.

4.4.21 A Noise Assessment will be required to support a planning application where a proposal would introduce new residential uses into a 'noisy area' (e.g. an area with very heavy traffic, industrial plant and machinery etc) and may also be required where a scheme itself has the potential to cause noise-related problems for new residents or existing adjacent occupiers. Assessments should detail any measures that could satisfactorily mitigate against the identified impacts.²⁴

4.4.22 Whilst legislation exists outside of the planning process to control noise where it amounts to a statutory nuisance (i.e., more than general living noise),²⁵ as set out in Policy NE5 6) the Council will use its planning powers to ensure that developments do not have significant adverse impacts on health or quality of life, even where these impacts fall below the threshold for separate action as a statutory noise nuisance.

²⁴ see the Council's planning application Validation Checklist <https://burnley.gov.uk/planning/planning-permission/what-do-i-need-to-submit/>

²⁵ <https://burnley.gov.uk/environmental-problems/noise/domestic-premises/>

Waste Storage (Refuse and Recycling)

4.4.23 Waste generation rates per m² are likely to be higher for schemes involving HMOs and small flats in comparison to schemes for larger flats or single dwelling houses. Inadequate waste storage can cause a health hazard with the potential to attract vermin.

4.4.24 Within the borough, in most cases, domestic waste is stored and then collected from wheeled bins which are placed on the street or at designated points on collection day. The majority of properties can have up to four bins: general waste; card and paper; other recyclables; and garden waste.

4.4.25 The design and layout of developments must ensure that there are adequate facilities for waste storage, both internally and externally, and also for collection. The Council's Standards for HMOs set out the waste disposal provision requirements based on occupancy levels - see Appendix B. Schemes that do not provide for adequate and appropriately designed on-site storage, having regard to the amenity of residents and neighbours, wider visual impact and highway safety, will not be supported.

4.4.26 Where it is not practical to provide separate bins for each flat or HMO room, provision should be made for shared/communal bins. Proposed site plan and elevations should show the location, size and design of any external waste storage area and the route (and distance) to the collection point.

4.4.27 Storage should normally be to the side or rear of properties and be appropriately screened from neighbouring properties. Care needs to be taken to ensure that storage areas do not interfere with the outlook from habitable rooms and that storage areas are adequately separated from any 'sitting out space'.

4.4.28 Where internal storage is proposed, proposed floor plans should show the location. The internal storage area must be sited so not to be a danger to children, or cause problems with hygiene and attract pests. Waste must not be stored on escape routes.

Highway Safety, Parking and Cycle Storage

4.4.29 Local Plan Policy IC3 requires the adequate provision of car parking for developments in accordance with specific parking standards set out in Appendix 9 of the Local Plan. These include specific minimum and maximum standards for HMOs and flats.

4.4.30 In the Town Centres of Burnley and Padiham or where schemes include redevelopment to secure the future of a heritage asset, the minimum standards may not be applied in full in cases where public parking exists nearby or where on-street parking is available and the development would not cause or exacerbate congestion, highway safety issues or on-street parking problems. (Appendix 9, Paragraph 11).

4.4.31 The demand for HMOs and small flats tends to be higher in inner urban areas with good access to public transport and within easy walking and cycling distances of local services and facilities, and HMO's in particular do not tend to be as car dependent as other forms of housing with occupants more likely to rely on public transport, walking or cycling. However, any lower rate of car dependency may be offset by the increased intensity of occupation. It is therefore important that schemes provide sufficient parking (on site or nearby where justified) in accordance with Policy IC3 and Appendix 9.

4.4.32 Any requirement for in-curtilage car parking should not result in the paving over of gardens or removal of boundary walls where this would have an unacceptably detrimental effect on the existing streetscene or a loss of important green infrastructure. This is particularly important for schemes

within conservation areas (Policy HE2) or within Ecological Networks (Policy NE1). The paving over of excessive areas of rear/side gardens may similarly be resisted.²⁶

4.4.33 To meet the requirement of Policy IC3 3) and to maximise opportunities for the use of sustainable modes of travel in accordance with Policy IC1, adequate space for cycle parking/storage should be provided within the curtilage of the property or within a convenient and secure communal space. Through Policy IC3, Appendix 9 (para 8) of the Local Plan allows for this to be internal or external within a convenient and secure communal space. It should have a clear route available to/from the public highway and be protected from the weather. External storage should be sensitively designed and sited so as to avoid any loss of amenity to neighbouring residents or visually detract from the wider streetscene.

4.4.34 Cycle parking and storage within habitable rooms or communal lounge/kitchen or dining areas is not acceptable.

Outdoor Amenity Space

4.4.35 It is important for residents of HMOs and small flats to have access to private or semi-private outdoor space. However, it is recognised that in some cases, existing external space may be compromised by the need to meet other requirements such as car parking and the storage of bins and/or cycles.

4.4.36 The importance of access to open and green space to people's physical and mental health was highlighted during the early months of the Covid-19 pandemic. Due to 'lockdown' restrictions, the opportunity to exercise outdoors and close to home was of increased importance for everybody, but for those who live in flats or homes without private gardens and for those without access to a private car, locally accessible open spaces was essential for their physical and mental health. The National Design Guide reinforces the importance of external amenity spaces in supporting health and wellbeing.

4.4.37 Local Plan Policy HS4 requires new housing development to provide private and functional outdoor space for occupants, and in the case of HMOs and apartments, allows for communal provision. The Local Plan does not set out quantitative requirements for the size of private or communal amenity spaces.

4.4.38 As a general guide, amenity space should, in addition to accommodating necessary bin storage, car parking and external cycle storage, provide space for residents to sit comfortably away from bin storage areas. It should provide a degree of privacy and receive some direct sunlight where possible.

4.4.39 The use of public open space in lieu of on-site provision of amenity space will require the applicant to demonstrate that on-site provision is not possible and that the public open space is sufficiently accessible and of a type to provide a genuinely usable alternative to on site provision. On site provision will be expected for large scale and new build schemes.^{27, 28}

4.4.40 All external amenity space should be well designed, fit for purpose and incorporate planting and food growing opportunities where possible.

²⁶ Depending on the size and location of the schemes this could be relevant to Policy SP5, SP6, NE1 and any loss of trees under to NE4 - and could also be relevant to flood risk - see Section 4.5

²⁷ Large Scale would be 10 or more flats, or 10 or more bedrooms in a single HMO

²⁸ Policy HS4 also includes standards for public open space for housing developments of five and upwards which are in addition to private/shared amenity space requirements

4.5 Flood Risk and Drainage

4.5.1 In line with Local Plan Policy CC4 1) and 8) the Council will seek to ensure that development does not result in increased flood risk either on the development site or elsewhere; and that where necessary, mitigation is included.

4.5.2 Policy CC4 6) requires a Site Specific Flood Risk Assessment to be submitted to support an application where a proposal is in Flood Zone 2 (medium) or Flood Zone 3 (high); or is in Flood Zone 1 where the site is greater than one hectare, has critical drainage problems (as notified by the Environment Agency) or includes an ordinary water course. Whether or not a Site Specific Flood Risk Assessment is needed, the Council will need to be satisfied that the occupants are adequately protected against flooding.²⁹ Advice on preparing Site Specific Flood Risks Assessment and the circumstances where these are required in Zone 1 is available on [Flood risk assessments if you're applying for planning permission.](#)³⁰

4.5.3 In flood risk policy terms, most residential uses are considered as a 'more vulnerable' use.³¹ A change of use of a non-residential building to a HMO or small flats may therefore involve introducing a use that is in a higher vulnerability category than the current use.

4.5.4 Basement dwellings are however classed as a 'highly vulnerable' use. National Planning Practice Guidance Flood Risk and Coastal Change makes it clear that 'highly vulnerable' development is incompatible with Flood Zone 3 and should not be permitted.

4.5.5 Where the proposal is not for a basement dwelling but would involve the creation of living or sleeping accommodation in a basement or sleeping accommodation on the ground floors, the Environment Agency recommends that planning permission is unlikely to be granted in Flood Zone 3, unless robust additional flood resistance and resilience measures are confirmed, together with the identification of a safe refuge above the flood level and the provision of a flood warning and emergency response plan.³²

4.5.6 Further advice is also available on the North West Flood Hub (<https://thefloodhub.co.uk/>)

Sustainable Urban Drainage Systems (SuDS)

4.5.7 Local Plan Policy CC5 3) states that in respect of major developments SuDs will be required, and that these should be designed in line with Plan, Ciria SuDS Manual C753 (2015, or any future replacement).³³

4.5.8 Whilst SuDS schemes are only required for major development and are normally only relevant to new build schemes, elements of them can be incorporated into non-major applications and schemes of conversions and changes of use such as to HMOs and developments of less than 10 small

²⁹ Paragraph 167 of the NPPF (footnote 55), also asks for a site-specific flood risk assessment for developments in flood Zone 1 where land may be "subject to other source of flooding, where its development would introduce a more vulnerable use". The guidance referred to in para 4.5.2 indicates that these are sources other than rivers or the sea, for example surface water drains and reservoirs.

³⁰ <https://www.gov.uk/guidance/flood-risk-assessment-for-planning-applications>

³¹ As defined in [Table 2: Flood Risk Vulnerability Classification of the \(PPG\): Flood Risk and Coastal Change.](#)

³² Whilst not forming part of their published guidance, the Environment Agency made the recommendation in its response to the consultation on this SPD.

³³ Burnley's Local Plan defines major applications as development where the number of residential units to be constructed is 10 or more or the site is 0.5 ha or more. The GPDO/NPPF says 'provided'

flats. This will be particularly relevant where the development would otherwise increase surface water run-off through, for example, increased paving of garden areas to provide bin storage or car parking.

4.5.9 Policy CC5 1) requires that in order to minimise surface water run-off, existing green infrastructure should be retained and integrated and where possible enhanced in line with Policy SP6, and that the use of permeable materials should be maximised. Clause 2) set out the discharge hierarchy.

4.5.10 What sort of sustainable drainage system is necessary and reasonably practicable should be informed by reference to the technical standards published by the Department for Environment, Food and Rural Affairs which take into account design and construction costs.³⁴

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. Policy CC5 1) requires the minimising of surface water run-off and 2) sets out a hierarchy for discharge, and 3) states that in respect of major development, SuDS will be required.

4.6 Cumulative Impacts: Managing the Concentration of HMOs and Small Flats

4.6.1 The issues above highlight that individual schemes for HMOs and small flats have a number of potential impacts that need to be satisfactorily addressed.

4.6.2 In addition, HMOs in particular, when these are concentrated in a specific area, can have wider cumulative impacts that can change an area's physical and social character. These impacts can affect neighbourhoods or individual streets. They will be most acute in areas of high-density terraced housing (terraced housing makes up over 50% of Burnley's housing stock). Whilst impacts can be controlled through planning applications, permitted changes which do not require permission, when carried out alongside approved schemes, can cause negative cumulative impacts.

4.6.3 Concentrations of HMOs may occur in and around further/higher education facilities to accommodate students, around major employers and in areas that are deprived and where property values are low.

4.6.4 The impact of a concentration of HMOs (or small flats) is considered harmful if:

- It significantly adversely affects the purchase and sale of single household dwellinghouses;
- It significantly reduces the choice of housing available in specific areas;
- It no longer provides for a mixed and balanced community;
- It changes the overall physical character of the area through excessive physical works to buildings, lower levels of property maintenance,³⁵ loss of gardens etc; or
- The increased level of occupation affects the quietness of an area or creates critical parking issues.

³⁴ The judgement of what is reasonably practicable should be by reference to the [non-statutory technical standards published by the Department for Environment, Food and Rural Affairs](#) and take into account design and construction costs

³⁵ Whilst good landlords will adequately maintain a building structure and fixtures and fittings, occupants may be less invested in the property's presentation compared to someone who owns or rents their own exclusive property/outdoor space.

4.6.5 When considering proposals for HMOs and small flats, the Council will also therefore consider the potential cumulative impacts under the requirements of Policy SP4 and SP5. Cumulative impacts here is concerned with the effects of a concentration of HMOs or small flats within a specific area, as opposed to overall number of HMOs and small flats which is considered in Section 4.2 on Housing Mix. Specific issues relating to Burnley Town Centres is considered section 4.3.

4.6.6 When considering potential cumulative impacts, the appropriate scale for the assessment will be either be at ‘local neighbourhood’ or the ‘street level’. The local neighbourhood is the area which has similar characteristics to the street where the development is proposed.

4.6.7 For HMOs, where schemes would lead to a harmful concentration as defined below, the application is likely to be refused.

- At the ‘local neighbourhood’ level, a harmful concentration can occur:
 - where a dwelling (C3 use), including a flat, becomes directly sandwiched between HMOs;³⁶ or
 - where HMOs currently, or would as a result of the application, represent more than 20% of the residential properties within a 100m radius of the application property in a particular neighbourhood.

- At the ‘street level’, a harmful concentration can occur:
 - where a dwelling (C3 use), including a flat, becomes directly sandwiched between HMOs; or
 - where there would be two or more adjacent HMO properties; or
 - where HMOs currently, or would as a result of the application, represent more than 10% of the residential properties within a 100m radius of the application property in the same street.

4.6.8 The 10 and 20% rules are a guide as to the point at which the application will trigger clustering concerns. Whether or not this alone would result in refusal of an application would depend on the particular circumstances e.g. the location of the street/neighbourhood and the size and type of properties in the neighbourhoods/street.³⁷

HMO Clustering Calculation:

$$\text{HMO Clustering Percentage} = \left[\frac{\text{Total number of residential properties in use as HMOs within 100m radius*}}{\text{Total identified residential properties within 100m radius**}} \right] \times 100$$

* including HMOs in converted buildings

** including residential properties in converted buildings

³⁶ The sandwich effect would not apply where the properties are separated by an intersecting road or where properties have a back to back relationship in different streets. Subdivided units will be considered on a case by case basis.

³⁷ Whilst there is no formal quantification/definition of the point at which an application may begin to affect the mixed nature of housing stock within the community, there is a widely accepted view within similar SPDs that imbalance occurs at around 10% of the residential properties within an area. The National HMO Lobby Paper ‘Balanced Communities & Studentification (2008)’ identifies 10% of properties or 20% of the population as the ‘tipping-point’ for HMO-dominance in a neighbourhood. <http://www.hmobby.org.uk/39articles.pdf>

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, and provide adequate and carefully designed storage for bins and recycling containers, located or designed in a way which is both convenient and safe for occupants and supports the quality of the street scene.

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.³⁸

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:³⁹

- 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.⁴⁰

³⁸ s.254 Housing Act 2004.

³⁹ s.254(2) and para 7, Sch. 14 Housing Act 2004

⁴⁰ s.254(2) and (3) Housing Act 2004.

Houses in Multiple Occupation and Small Flats SPD:

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.⁴¹

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:⁴²

- 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',⁴³ rather than 'sole use', of the property.⁴⁴

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.⁴⁵

A1.14 The notice comes into force after 28 days, which is the period for appeal to the First-tier Tribunal (Property Chamber).⁴⁶ If there is an appeal, the notice only comes into effect once it has been confirmed by the Tribunal and the time for appeal against that decision has elapsed (normally 28 days) or the Upper Tribunal confirms the notice.

⁴¹ s.254(8) Housing Act 2004.

⁴² s.254(4) Housing Act 2004.

⁴³ s.260 Housing Act 2004.

⁴⁴ s.255 Housing Act 2004; Herefordshire Council v Rohde [2016] UKUT 39 (LC).

⁴⁵ s.255(4) Housing Act 2004.

⁴⁶ 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.

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:⁴⁷

- 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:⁴⁸

- 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:⁴⁹

- 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
- 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

⁴⁷ s.257 Housing Act 2004; Hastings BC v Turner [2020] UKUT 184 (LC).

⁴⁸ s.258 Housing Act 2004.

⁴⁹ 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.

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:⁵⁰

- 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

⁵⁰ 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.

Houses in Multiple Occupation and Small Flats SPD:

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 following table 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:</p> <p>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.</p> <p>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:</p> <p>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:</p> <p>At least two double 13amp electrical power points (in addition to those used for fixed appliances, such as washing machines).</p> <p>Worktop:</p> <p>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:</p> <p>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:</p> <p>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:</p> <p>Appropriate waste disposal facilities must be provided</p> <p>Ventilation:</p> <p>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	<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>
		Mereclough Lane Bottom Hurstwood Overtown Holme Chapel Walk Mill	<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 rooms⁵¹ 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

⁵¹ Habitable rooms are those in a dwelling house other than landing bathrooms toilets and utility rooms

Single storey and two storey dwellings:	Where windows of habitable rooms face: ⁵² <ul style="list-style-type: none"> • a blank gable; or • other windows serving non-habitable rooms. 	No less than 15 metres
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 small 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;**

⁵² Windows within a 45° angle of each other

- 9) Open space provision should be designed to deliver multifunctional benefits in particular by:
 - d) Providing and contributing to a wider network of green infrastructure as set out in Policy SP6;
 - e) Working with and retaining important existing landscape character, features, trees and habitats in accordance Policy NE1, 3 and 4;
 - f) 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 Test⁵³

- 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.

⁵³ 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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