

Support in Principle for the Draft HMO SPD, With Suggestions for Improvement

Andrew Waller,
Resident, Hampton Road, Bristol BS6 6JG
thenoisepages@gmail.com

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1. Introduction

- 1.1. I am an individual resident living in an area of student-occupied HMOs. I publish a website, www.thenoisepages.com, which seeks redress for night-time noise caused by university students, most of whom live in HMOs.
- 1.2. My position on the draft SPD is: SUPPORT IN PRINCIPLE.
- 1.3. In Section 2 below, I set out some aspects of the SPD that should be clarified.
- 1.4. In Section 3, I suggest the SPD could be strengthened by including requirements for sound insulation and mitigation to protect neighbours.
- 1.5. In Section 4, I suggest the SPD needs to be accompanied by parallel policies aimed at mitigating harms that already exist. (The SPD will only prevent future harms.) As part of this effort, I suggest the council's enforcement of both HMO licensing conditions and noise legislation needs to be reviewed and made more effective.

2. Comments on Draft Document

- 2.1. **Section 4.1 Sandwiching (Street level)** on Page 10 rules against sandwiching "*either directly adjacent or up to two properties removed*" (my emphasis), which is to be welcomed. However, **Figure 3** needs to be consistent with that wording. The illustration shows how either or both of two proposed HMOs (in yellow) could cause sandwiching of adjoining houses because of an existing HMO (purple). But if we look at the left-hand yellow property, the house to its left would also be denied HMO permission and should be similarly coloured.
- 2.2. **The wording of the blue box on Page 7** should similarly be amended to make it fully consistent with the wording of Section 4.1, as quoted above.
- 2.3. **The lower illustration in Figure 3**, showing an alleyway that would be disregarded in application of the sandwiching rule, depicts something not covered in the main text. If this is an important point, it needs to be introduced in Section 4.1, which will need to define what breaks in building line will be ignored in applying the rule.
- 2.4. **Section 4.2** refers to LLPG property points. Is there a publicly accessible map or database that shows these points? If so, it should be referenced.
- 2.5. **Figure 4, HMO Threshold Calculation—Worked Example**. While this illustration gives a basic sense of how the 100-metre radius will apply, **Section 4.4 Information on Datasets** makes clear it is "*total identified dwellings*" as recorded in the Bristol LLPG that will be used for calculation purposes. A significant number of properties visible on the map may have been subdivided into multiple dwellings, so a map-based assessment could prove misleading. An HMO application that seems destined to fail, based on a glance at the map, might succeed if the total number of dwellings (the denominator) is

significantly higher than the number of visible properties. A caption should make clear that Figure 4 shows the general concept, not the calculation method.

- 2.6. **Section 4.4 Information on Datasets, HMOs** goes on to discuss the numerator in the calculation, which is “*total identified HMOs*”. These will be all licensed HMOs and all planning permissions for HMOs. But how will current enforcement actions be treated—that is, against properties that are in use as HMOs but don’t have a licence, or planning permission, or both? There have been a number of cases where retrospective applications have resulted in approval. The strictest approach would be to count enforcement actions in the total, on a worst-case basis. Alternatively, applications must be dealt with on a first-come, first-served basis, and if another application takes the threshold to the 10% limit before an enforcement action is decided, the retrospective application should fail.
 - 2.7. Similarly, what happens if there are multiple applications in an area, any one of which would take the threshold to 10%, and the first one in the queue runs into delays: Is the whole queue then held up while it is resolved? If not, the delayed application may lose its place in the queue and the next in line may proceed. Will the delayed application then be refused because the 10% threshold has now been reached? The SPD must be clear as to how such situations will be dealt with.
 - 2.8. **Section 4.4 Information on Datasets, HMOs** also implies that the total number of identified HMOs will be derived from a database that is updated quarterly. If the new rules are to be effective, especially where the 10% limit is already close to being met, a more up-to-date count is needed. In many situations the addition of just one HMO to the database could decide whether an application succeeds or fails.
 - 2.9. **Section 4.4 Information on Datasets, Student Bed Spaces** says this data will be drawn from “*annually updated records.*” Again, I suggest the data must be more timely. Since purpose-built student accommodation (PBSA) will be counted as “equivalent HMOs”, a single such development could influence whether an HMO application is granted or not. Because of the University of Bristol’s expansion, there is now a great deal of activity in this space and material changes could occur in the space of a year.
 - 2.10. **Appendix B** presents minimum room sizes required by HMO licensing (a separate process controlled by the council’s Private Housing Team). These could conceivably change during the lifetime of the SPD. This page, and the relevant references to it in the main SPD text, should make clear that these are the current standards but that applications must meet those in force at the time.
3. Include: Sound Insulation and Mitigation
 - 3.1. Specific issues of HMO design such as room sizes are dealt with in section **3.2 What is a Good Standard of Accommodation?** However, an important consideration is omitted: sound insulation and mitigation designed to reduce the noise impact of multiple occupancy on adjoining properties.
 - 3.2. Better sound management would alleviate some of the problems that commonly lead to complaints about HMOs. Many properties chosen for conversion date from the Victorian and Georgian eras. The nature of their construction, the effects on materials (particularly mortar) of a century and a half of ageing, and the flue cavities in adjoining

chimney breasts, among other factors, can produce high levels of noise transmission between properties. Neighbours are therefore particularly vulnerable to the effects of intensification that occur when properties become HMOs. In the context of a major conversion, noise-mitigation measures are not difficult or overly expensive to implement and it is not unreasonable to insist that conversions should achieve an enhanced level of sound insulation, for example on party walls, that is commensurate with the increased risk of noise nuisance.

- 3.3. The SPD should adopt and expand the approach taken in a recent planning application to convert the Black Boy Inn on Whiteladies Road into an HMO. (Application 19/04744/F, approved 12 February 2020.) On the advice of the council's Pollution Control team, planning officers included stipulations as to sound insulation in their recommendation to grant the application, as follows (see page 23 of the PDF version of the document submitted to the planning committee):

Pre commencement condition(s)

2. Further details: Noise insulation

Prior to the commencement of development, a scheme of noise insulation measures for the development shall be submitted to and approved in writing by the Local Planning Authority.

The scheme of noise insulation measures shall include details of:

- o Sound insulation between the ground floor A1, A2 or A3 use and the residential parts of the development.
- o The glazing and ventilation specification for all bedrooms
- o Any bathrooms on party walls with adjoining residential properties

The scheme of noise insulation measures shall be prepared by a suitably qualified acoustic consultant/engineer and shall take into account the provisions of BS 8233: 2014 "Guidance on sound insulation and noise reduction for buildings. The approved scheme shall be implemented in full prior to the commencement of either use and be permanently maintained thereafter.

Reason: To preserve an acceptable standard of amenity for residents both at the site and at adjacent sites in accordance with Policy BCS21 of the Core Strategy as well as Policies DM30 and DM35 of the SADMP.

- 3.4. Aspects of a conversion that are likely to require attention may be as follows:

- 3.4.1. Walls and floors that separate the HMO from adjoining properties
- 3.4.2. Features, such as doors, that can be sources of noise
- 3.4.3. Any other aspects of the design that give rise to noise concerns

- 3.5. In more detail, design aspects to be considered may include:

- 3.5.1. Separating floors. Many HMO conversions involve subdivision of a property to create a multi-storey house or maisonette with a basement flat below (or, as in the Black Boy Inn case, residential accommodation above commercial space). Sound-insulating the structure may require modification of both the

floor above and the ceiling below, as well as insulation of any floor void and stopping-up of any routes of sound transmission.

- 3.5.2. Separating walls. Party walls should be sound-insulated wherever possible so that neighbours who previously enjoyed peaceful living are not unduly affected by the change of use next door.
 - 3.5.3. Internal door-closers. Soft-closers should be fitted to internal doors, otherwise the sound of doors banging shut will carry into adjoining properties, and will be particularly noticeable at night.
 - 3.5.4. External (front) doors. Slamming of entrance doors is another frequent cause of neighbours being woken up (including those in basement flats, as well as other occupants of the HMO itself). Doors may be slammed because they are poorly fitted; the SPD should require soft-closers, plus checks that the final design performs to an acceptable standard.
 - 3.5.5. Entrance access. Traditional cast-iron or brass door-knockers create similar noise nuisance for neighbours, particularly at night, when HMO occupants return in the early hours and can't find a key. A bell system would avoid waking the whole street if not immediate neighbours. Alternatively, consideration could be given to modern keyless door systems.
 - 3.5.6. Stair treads. These should be covered with sound-deadening material.
 - 3.5.7. Toilet, bathroom or kitchen installations on party walls. These should receive particular attention to mitigate sound transmission into adjoining properties, as recommended in the Black Boy Inn case.
 - 3.5.8. Communal living areas. Kitchens or shared living rooms should not be positioned opposite bedrooms in adjoining properties. (Care is needed with plans to intensify existing HMOs: Many landlords are removing living rooms to create extra bedrooms. The result can be that the largest bedroom in the house becomes a potential gathering place, which is a problem if it is adjacent to a bedroom next door.)
 - 3.5.9. External high points. For sound-management but also for reasons of safety, attention should be paid to balconies and accessible roof areas, which are often popular gathering points for HMO occupants, especially smokers. Generally, access to roof areas should be denied.
- 3.6. If possible, the SPD should stipulate that all of the above considerations, as well as those already set out in **Section 3.2**, will be re-assessed when an application is made to intensify an existing HMO. In other words, intensification will provide an opportunity to bring the property up to the new standard. (Building regulations already treat certain modifications as triggers to require compliance with modern standards—eg, for thermal insulation or electrical safety—so in principle this is not a new approach.)
- 3.7. If the council is limited by law as to what it can do in this area, the SPD should at least make reference to existing building regulations and any other standards that may apply to noise mitigation. The approach used in Appendix B, which cites room sizes stipulated by HMO licensing (regulations that are also outside the scope of the SPD), could similarly be used to create an Appendix C listing applicable standards.

4. Need for Supporting Policies on Mitigation and Enforcement

4.1. The SPD rightly seeks to prevent the creation of “harmful concentrations” of HMOs and thereby to preserve balanced communities. But it will take more than this SPD to accomplish those aims for the simple reason that, using the SPD’s proposed tests as a guide, many “harmful concentrations” already exist. While the SPD deals with future developments, the council needs to introduce parallel policies aimed at undoing those existing harms and restoring balance to communities.

4.2. **Section 1.3 Houses in Multiple Occupation in Bristol** of the SPD says harmful impacts associated with high numbers of HMOs can include:

- **Reduced social cohesion** resulting from demographic imbalance;
- **Reduced housing choice** resulting from housing type/tenure imbalance (e.g. a shift from permanent family housing to more transient accommodation);
- **Reduced community engagement** from residents resulting from an increase in the transient population of an area;
- **Noise and disturbance** resulting from intensification of the residential use and/or the lifestyle of occupants;
- **Detriment to visual amenity** resulting from poor or accumulative external alterations to properties and/or poor waste management;
- **Reduced community facilities** resulting from a shift in the character of shops and businesses;
- **Highway safety concerns** resulting from congested on-street parking.

4.3. In certain areas, there is a link between these impacts and Bristol’s student population, which has grown rapidly in recent years and continues to do so at the University of Bristol. As Section 1.3 acknowledges (my emphasis):

The level of student population in the city is also a factor affecting the amount and distribution of HMOs. A number of residential areas have high student populations living in this form of accommodation. These areas directly surround or are accessible to the city’s two universities. ... The issues identified above [*] have become intensified in these locations due to high HMO numbers. Significant concentrations in particular streets and neighbourhoods have had damaging impacts on local communities.

* [see the text quoted in 4.2 above]

4.4. Now that BCC has explicitly recognised these harms, it follows that the council should consider what action should be taken to mitigate them. Such action will necessarily be outside the scope of the SPD itself because its proposals cannot be retrospective. Nevertheless, the instrument that is laid before the council to give effect to the SPD should, as its secondary objective, establish the process by which parallel policies aimed at mitigating existing harms will be created.

4.5. Broadly, this effort to tackle existing “harmful concentrations” should, first, map the areas where those conditions are currently found and, second, call for a wide-ranging review of possible mitigating measures. These should be designed to reduce the “harmful concentrations” over time, and to ameliorate the worst of the problems—for

example, noise nuisance and poor waste management—that are found in those locations.

- 4.6. Strategies to achieve those goals are unlikely to be centred in planning policy as such. They could require a need to think creatively—for example, offering financial inducements to return HMOs to family homes, financed by the restoration of council-tax revenues. More conventionally, they would involve collaborative working between different arms of the council, particularly those enforcing HMO licensing standards, waste management regulations and noise nuisance laws. In some cases, national legislation may need to be strengthened to make council powers more effective, and the council should join with other authorities in seeking the changes needed.
- 4.7. As part of this process, the council’s enforcement arms should be subject to detailed review. Enforcement of HMO licensing requirements and of noise legislation currently appears weak and seems to be having little impact in the “harmful concentrations” of HMOs surrounding the University of Bristol.
- 4.8. Enforcement of HMO licensing conditions. BCC’s Private Housing Team is responsible for ensuring that landlords comply with the terms of their licence. While HMO legislation and licensing chiefly focus on the condition of the property, landlords do also have a duty to seek to ensure that their tenants don’t cause distress and disturbance to other people. It is fair to say that landlords’ capacity to control their tenants is limited, but landlords appear to be under little pressure from BCC to take even the simple steps available to them.
- 4.9. In areas such as Redland and Cotham, where there are many HMOs occupied by University of Bristol students, the consequences of this laxity are manifest in frequent night-time noise nuisance and pavements obstructed by waste bins and recycling boxes that stay in the street from one collection day to the next. Often there is also rubbish that is not in bins and therefore attracts foxes and vermin.
- 4.10. BCC HMO licensing conditions require landlords to, among other things, regularly inspect their properties and take reasonable steps to deal with anti-social behaviour by their tenants. In theory, landlords who fail to fulfil these conditions may have their licences revoked, or refused on renewal. In practice, it appears the chances of this happening are extremely low.
- 4.11. In 2018, I posed questions about this to the Private Housing Team. The answers included this statement: *“I am not aware of the Council revoking a Licence for specific breach(s) of licence conditions.”* The reply indicated that breaches would be considered alongside other matters to determine whether a landlord met the “fit and proper person” test required of licence holders. But it also said: *“The refusal of a Licence where the local authority considers the licence holder/manager is not a ‘fit and proper person’ is not a common occurrence.”* The reply offered no statistics.
- 4.12. In light of the above, it is frustrating to see planning officers imply that HMO licensing enforcement can be relied upon to deal with any future problems at a new HMO. The following passage is quoted from the officers’ assessment in the Black Boy Inn case referred to earlier (my emphasis):

The property will also require a Mandatory HMO License. If granted, this will include

conditions which require the landlord "must take all reasonable steps to deal with anti-social behaviour perpetrated by occupiers and/or visitors to the property". They also "must ensure that the property is inspected on a regular basis to assess if there is evidence of anti-social behaviour; this should be at least quarterly, but more frequently if anti-social behaviour has been established". If there are regular issues with the site, the terms of the license may be reviewed or alternatively a renewed license may not be granted. Consequently, there are courses available to manage the situation if disruptive noise does occur separate to the planning system ...

- 4.13. One necessary step in mitigating harms at existing concentrations of HMOs is therefore to tighten HMO licensing supervision and ensure that landlords observe the current conditions in full. The council should also examine the possibility of tightening the rules themselves to achieve better outcomes.
- 4.14. Dealing with noise nuisances. With regard to action on noise, which now comes under BCC's Neighbourhood Enforcement Team, the lack of effective remedies is equally obvious in the general level of disturbance that residents in areas with high student numbers have to put up with. Noise enforcement is mostly likely to be needed during night-time hours, yet the council no longer has noise-enforcement officers on duty at night except in very limited circumstances, as explained below.
- 4.15. Information that I have collected from residents over the past two years and published on The Noise Pages website (www.thenoisepages.com) shows that noise problems typically fall into one of three categories:
 - 4.15.1. Residents being woken by shouting in the street as students move to and from local pubs and clubs. This may represent the biggest category of disturbance—some residents are woken several times a week—but is also the least reported because it is usually short-lived and the culprits typically cannot be identified.
 - 4.15.2. Student parties—these often start at around 11pm, last into the small hours, attract large numbers and may affect whole streets. In 2018-19, the last academic year for which full details are available, the University of Bristol reported it had received 78 complaints about parties, of which more than half were concentrated in the Redland area. Noise complaints are typically at their highest in the first term, from late September to December.
 - 4.15.3. Disturbance, again mostly in the evenings and night-time, from the high impact of student lifestyles on those who live next door to them. These cases can take weeks or months to resolve. (The University of Bristol doesn't specifically identify these cases. They are grouped among "general noise" complaints—anything not classed as a party. There were 127 cases in that category according to UoB's 2018-19 report, making a total of 205 noise complaints for the year when the 78 parties are included.)
- 4.16. Despite these numbers there is reason to believe that, for a variety of reasons, noise disturbances are significantly under-reported.
- 4.17. So far as redress is concerned, the Neighbourhood Enforcement Team (also known as "Pollution Control") deals with only a small portion of these incidents.

- 4.18. Noise on the street. The NET has never had statutory noise powers to deal with the first category, noise by people in the street. (Theoretically such incidents could be treated as anti-social behaviour but I have never come across an instance of this happening. The police could deal with them as ASB or public-order offences but rarely do so.)
- 4.19. Parties. The NET explicitly declines to deal with parties, which it regards for the most part as “one-off events”. For evidence, see the council’s noise complaints page at <https://www.bristol.gov.uk/pests-pollution-noise-food/noise> with particular reference to the wording in the grey box and the lists below it. (The police frequently decline to respond to 101 calls about parties and instead refer complainants to the council. One exception to this is Operation Beech, a two-person patrol funded by the University of Bristol that operates on selected nights and is tasked to intervene at student parties. This was introduced in September 2019 and has had good reviews from residents but at the time of writing it is unclear whether Beech will be repeated in 2020-21.)
- 4.20. Repeated disturbance. The NET will only accept complaints about the third category, which it terms “ongoing” noise—repeat disturbance from the same address, as evidenced by a 14-day noise diary that a complainant must submit in order for a case to progress. (A party will only receive attention if it’s part of such a pattern of disturbance. This frustrates residents, who often experience repeat disturbance every year from fresh groups of students at an address, or indeed on a weekly basis from students at different addresses. Those are also patterns, but not ones the NET regime recognises.)
- 4.21. Even with “ongoing” noise, the chances of intervention are limited. Once complainants have been assigned a case officer, they are given a phone number to call if disturbance occurs out of hours. But officers are available only on alternate weekends.
- 4.22. In one such case in 2019, a resident who had reached this stage of the process learned that his next-door student neighbours were planning a large party that night. He rang the number provided, but no one was on duty that weekend. The party lasted from 11pm to 7am, attracted 120 people and produced a decibel reading of up to 78 in his bedroom, making sleep impossible. He and a neighbour on the other side of the student property both said objects in their houses were shaking with vibration coming through their (well-named) party walls. The students were subsequently fined by the University of Bristol and the NET served them with noise-abatement notices and community protection notice warnings. But as the academic year was about to end, the students left a few weeks later, rendering this action moot. In short, the NET enforcement process gave this resident no effective protection. The NET action also was not publicised, so it had no deterrent effect that might have helped to prevent such problems in future. The outcome seems to have represented a significant use of council resources for very little return.
- 4.23. Given that student noise in certain areas is a well-known issue, I sent several questions to the council in August 2019. I received a reply from the NET team leader that read in part: “*The council does not have strategy or policy for curbing late-night student noise ...*” and on a separate point (my emphasis): “*As stated in the protocol & in the policy document provided the council will investigate on-going noise complaint. [sic] There is no facility for reporting or recording of noise complaints that are not under investigation by the council.”*

- 4.24. It should be clear that, with better resources and more-focused policies, the council could do significantly more to address the high levels of noise disturbance in areas with large concentrations of student-occupied HMOs.
- 4.25. It also would be entirely right and equitable to expect the University of Bristol (and in relevant areas, the University of the West of England) to help fund the resources needed. In the case of UoB, the council might find itself pushing at an open door. A [June 5, 2019 article in the student newspaper Epigram](#) about Operation Beech (see 4.19 above) reported a university spokesperson as saying: *“The University takes very seriously its responsibility to be a good neighbour and manage the impact of our students on the community. We acknowledge that public services are stretched, so where our students are causing distress to local residents, we should contribute to resourcing that management.”* (In October 2019, Bristol Live ran an online article [quoting a similar comment](#) attributed to Prof. Sarah Purdy, UoB pro vice-chancellor for student experience.)
- 4.26. As a footnote, the fact that “one-off” noise incidents such as loud late-night parties are not recorded by the council creates problems when HMO applications are being assessed. Planning officers, as part of their evaluation, may ask the NET for data on historical noise complaints from existing HMOs in the area. Given the policy not to record party complaints, any numbers supplied in response to such enquiries are likely to under-represent the level of noise nuisance because they capture only a small fraction of what actually takes place. These data should not be relied upon in assessing HMO applications.
- 4.27. Other enforcement issues. There is also potentially a problem—one rather closer to the core concerns of the SPD—when planning officers recommend HMO applications for approval “subject to conditions”. For example, in the Black Boy Inn case, the officials proposed to deal with issues relating to storage of bins and recycling boxes by attaching a condition to the effect that *“No refuse or recycling material shall be stored or placed for collection on the adopted highway (including the footway), except on the day of collection.”* This condition is commonly attached to HMO applications and is intended to ensure that bins and household waste are not left on the street—a frequent problem in areas with student-occupied HMOs. It is not clear, however, whether Planning has the ability or personnel to enforce this or any other condition that deals not with construction or design details that can be assessed against architectural drawings but with ongoing usage and behaviour.
- 4.28. The bottom line is that whenever enforcement (of whatever kind) is mentioned in an HMO assessment as a potential antidote to future problems, there needs to be greater transparency about who will do the enforcing, what law or regulation provides the necessary powers, and what the recent track record has been in similar cases.

Conclusion

The only sure way to prevent future problems with “harmful concentrations” of HMOs is to limit their spread. For that reason, the SPD is to be welcomed, subject to the clarifications mentioned in Section 2 above. More could be done to insist on design standards that minimise potential problems

in HMOs, such as the sound-proofing and sound-mitigation measures suggested in Section 3. And it is important that any conditions attached to planning approval for new or enlarged HMOs are capable of being enforced, as mentioned in paragraphs 4.27 and 4.28. But these initiatives would leave the job half done. Once the SPD is in place, the council needs to begin looking at ways to improve life for residents in the areas where it now recognises that harms are already occurring. This may require some innovative solutions, or collaboration with other authorities to secure changes in national legislation. In the meantime, obvious areas for attention are better enforcement of HMO licensing conditions and more-effective action against noise disturbance.

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