

Houses in Multiple Occupation 'Exceptional Circumstances' Guidance Note

Covering the Waveney Local Plan area

December 2024



Background

1. The purpose of this Guidance Note is to provide guidance, and therefore clarity, on the circumstances that could be deemed exceptional in applying the last sentence of Waveney Local Plan policy [WLP8.4 \(Conversion of Properties to Flats\)](#) in relation to proposals for conversions to Houses in Multiple Occupation (HMOs) or bedsits. Regular requests have been made by applicants/landowners for clarity in relation to the final sentence of policy WLP8.4, alongside its supporting text (paragraphs 8.24-8.25), as it lacks guidance as to the circumstances that could potentially be deemed exceptional. It is for this reason that this Guidance Note has been prepared. Applicants should consider this Guidance Note through the preparation of their planning application and reference the Guidance Note in their planning application.
2. Policy WLP8.4 reads as follows, with the text relevant to this Guidance Note emboldened.

Policy WLP8.4 – Conversion of Properties to Flats

Flat Saturation Zones are identified on the [Policies Map](#).

No further conversions to self-contained flats/houses in multiple occupation will be permitted in Flat Saturation Zones on Lyndhurst Road, part of Denmark Road, part of London Road South and part of Kirkley Cliff Road, Grosvenor Road, Cleveland Road and Windsor Road where saturation levels are exceeded.

Outside the Flat Saturation Zones planning permission will be granted for conversion of existing buildings to fully self-contained accommodation where the saturation figure for the street does not exceed 20% and residential properties are above average size (i.e. above 160sqm original gross floorspace and include at least 5 bedrooms), no longer suited to family occupation or have a long established use (i.e. 10 years or more) as a House in Multiple Occupation or flats. The property should be located in a commercial, mixed use or other area close to services and facilities, be able to meet existing standards for parking, amenity areas, refuse bin storage and sound insulation and have no significant detrimental impacts to adjoining family houses.

Exceptional circumstances will need to be demonstrated for the conversion to Houses in Multiple Occupation or bedsits, as opposed to self-contained flats, to be permitted.

3. This Guidance Note, in applying to policy WLP8.4, applies to the former Waveney area of East Suffolk, and does not apply to the former Suffolk Coastal area of East Suffolk. The former Suffolk Coastal area is covered by the Suffolk Coastal Local Plan, within which the equivalent policy ([SCLP5.12: Houses in Multiple Occupation](#)) does not include an 'exceptional circumstances' test.
4. For the avoidance of doubt, an HMO is defined for planning purposes under use class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended) for properties of up to six occupants or *sui generis* (in a class of its own) for larger HMOs. A use class C4 HMO is defined as a property being shared by three to six tenants who form two or more (separate) households and who share basic amenities (kitchen, bathroom and/or toilet). The definition of an HMO for licensing purposes (section 4 of the Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018) differs to the above planning definition.
5. A bedsit is a room within an HMO rented by a tenant, which contains at least one facility for the exclusive use of the tenant. The tenant will also have shared use of at least one facility (e.g. kitchen,

bathroom and lounge) elsewhere within the HMO. The tenants will not always know each other and will have locks on their bedroom doors. A self-contained flat is defined under section 254 of the Housing Act 2004 and can broadly be understood to be a flat in which toilet, personal washing, and cooking facilities are available for the exclusive use of its occupants.

6. The justification for Policy WLP8.4 is set out in paragraph 8.24 of the Local Plan. The policy was included on the basis that a high proportion of flats, HMOs, and bedsits in an area can sometimes lead to amenity and environmental issues as well as unbalanced communities, which are undesirable.
7. Under policy WLP8.4, proposals for conversions to HMOs in parts of the former Waveney area that are outside Flat Saturation Zones are required to demonstrate 'exceptional circumstances', which must be understood as a very high threshold to pass. Proposals for conversions to self-contained flats and new build HMOs are not subject to this requirement.

Exceptional Circumstances

8. What might constitute 'exceptional circumstances' is not set out in policy WLP8.4, or the supporting text, and is a matter for the decision maker (planning officer, Planning Committee, Planning Inspector if at appeal). 'Exceptional circumstances' can therefore extend beyond the question of housing need.
9. Notwithstanding the discretion afforded to decision makers with regard to the formulation of planning judgement and the need to consider planning applications on a case by case basis, the following material considerations should, when taken together, be considered to demonstrate 'exceptional circumstances':
 - a) Housing affordability – The Council's adopted [Supplementary Housing Statement](#) (4 June 2024) notes that while HMOs represent some of the smallest and cheapest accommodation within East Suffolk, the available accommodation is limited and there is a significant need. The significant need for one-bedroom accommodation in North and South Lowestoft alone is noted in the Supplementary Housing Statement, through Gateway to Homechoice data (social housing lettings scheme), as comprising 286 people under 35 in February 2024. The need for such housing is therefore accepted on the basis of affordability and need not be demonstrated through individual planning applications. Planning applications should reference the Supplementary Housing Statement. This position will hold unless and until such time as the Supplementary Housing Statement is superseded with confirmation that such accommodation is no longer unaffordable, particularly to those most in need or when the Waveney Local Plan is superseded by a new Local Plan; and
 - b) Unsuccessful marketing – Demonstrably no interest in the current use for at least 3 months sustained marketing for proposed conversions from non-tourism uses or at least 12 months sustained marketing for proposed conversions from tourism uses, in accordance with policy WLP8.17 (Existing Tourist Accommodation). Marketing must be completed before the submission of a planning application and be carried out in accordance with the marketing principles set out in Appendix 4 (Marketing Requirements).
10. Compliance with amenity policy requirements will also be particularly important in resolving common issues associated with a prevalence of HMOs. Such amenity policy requirements include:
 - a) Car parking (policies WLP8.4 – Conversion of Properties to Flats, WLP8.21 – Sustainable Transport) – acceptable number of spaces as set out in the 2023 SCC Guidance for Parking (or

any later version). Where it is not possible to provide a policy compliant number of car parking spaces a reduction in this figure may be considered with robust and agreed highway mitigation, including a greater number of covered, secure and accessible cycle storage spaces;

- b) Cycle storage (policies WLP8.4 – Conversion of Properties to Flats, WLP8.21 – Sustainable Transport) – acceptable number of spaces as set out in the 2023 SCC Guidance for Parking (or any later version), which are covered, secure and accessible;
- c) Refuse storage (policies WLP8.4 – Conversion of Properties to Flats, WLP8.29 – Design) – acceptable number of conveniently located bins to minimise visual intrusion and avoid clutter; and
- d) Residential amenity (policies WLP8.4 – Conversion of Properties to Flats, WLP8.29 – Design) – acceptable amenity standards and appearance of the building. Consideration should also be given to the extent of compliance with East Suffolk Council's [HMO Suffolk Landlord's Handbook and the Healthy Environments Supplementary Planning Document \(chapter 4 – Healthy Homes, Schools & Workplaces\)](#), which amongst other things include amenity standards.

11. The list under paragraph 9 is not exhaustive; there may be other material considerations that would also help demonstrate 'exceptional circumstances'. One might be the occupation of the proposed HMO by vulnerable occupants (e.g. asylum seekers/refugees/homeless/special needs/care). It would need to be demonstrated that the HMO will be occupied by vulnerable people. Such occupation will need to be tied to the management of the HMO (e.g. organisations/charities that support vulnerable people). Ordinarily planning permission runs with the land. However, in these instances where management of the HMO is integral to the proposal, and subject to section 75 of the Town and Country Planning Act 1990, it is considered appropriate to grant personal permission which can be secured by condition. If it is not possible to secure such a condition a unilateral undertaking could be agreed instead.
12. Another might be employment-related HMOs; for example, a catering or tourism/seasonal business owning and/or managing (directly or indirectly) an HMO for the sole use of its employees, to try to provide affordable accommodation for low-wage employees. Student-only accommodation managed by, or on behalf of, a college or university might be another example.
13. It is important to note that even if 'exceptional circumstances' are demonstrated, there is no guarantee that planning permission will be granted, due to the need to consider planning applications against all relevant planning policies and all other material considerations. It is entirely possible, therefore, that permission may be refused on the basis that the proposal fails to accord with other planning policies, which are considered to outweigh compliance with policy WLP8.4.
14. Prior to the submission of a planning application, it should be confirmed whether planning permission and/or any other consent is required. It is strongly encouraged that advice is sought from a planning consultant and/or East Suffolk Council, as the Local Planning Authority, through the Council's [pre-application planning advice service](#). This service can also be used to seek guidance on the acceptability of a proposed development.

Other Relevant Information

15. HMOs may also require a licence, which can be applied for to East Suffolk Council by submitting an [HMO licence application](#). Operating a licensable HMO without a licence could result in heavy penalties including an unlimited fine. Guidance on [HMO standards](#) including room sizes, amenities, fire safety and management also needs to be fully considered for all HMOs whether or not they require a licence. Further information is also available on the [Safe Suffolk Renters](#) website.
16. Depending on the nature of the proposed development, building regulations consent may be required to ensure the proposal complies with building regulations (e.g. fire safety, structural integrity etc). The Council's Building Control team can advise on whether building regulations consent is required, and if so, to assist in guiding development through the process. Further information can be found on the Council's [Building Control webpages](#).
17. Planning, licensing, and building regulations processes should be considered together, and at the earliest possible opportunity, as implications for one of these processes can affect the others. For example, a licensing requirement for an HMO may have building regulations requirements which might, in turn, require changes to the overall design sufficient to require planning permission.

Write to us



East Suffolk Council
Planning Policy and
Delivery Team
Riverside, 4 Canning
Road, Lowestoft,
NR33 0EQ

Call us



Planning Policy and Delivery Team (Local Plans)
01394 444557

Development Management (Planning Applications)
01394 444832

Email us



Planning Policy and Delivery Team (Local Plans)
planningpolicy@eastsuffolk.gov.uk

Development Management (Planning Applications)
planning@eastsuffolk.gov.uk

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