

Newport City Council

Supplementary Planning Guidance

**HOUSES IN MULTIPLE
OCCUPATION (HMOs)**



Updated January 2017



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1.0 INTRODUCTION

1.1 What is supplementary planning guidance (SPG)?

1.1.1 Published as an addition to the Newport Local Development Plan 2011 – 2026 (Adopted Plan, January 2015), supplementary planning guidance provides clear, in-depth advice on a range of planning and development issues. Before it can be adopted, it has to undergo a period of public consultation and then receive the Council's approval. Once adopted, it constitutes one material consideration in the determination of relevant planning applications.

1.2 What is the history of the Houses in Multiple Occupation SPG?

1.2.1 This SPG was formally adopted on 06 August 2015 and updated in January 2017.

1.3 What is the purpose of this SPG?

1.3.1 To explain how the council assesses applications for planning permission to create houses in multiple occupation.

1.4 Further advice

1.4.1 Further advice may be sought from:

Development Management, Newport City Council, Civic Office, Godfrey Road,
Newport NP20 4UR.

e-mail: planning@newport.gov.uk

Duty Planning Officer: 01633 656656

(Available Monday, Wednesdays and Fridays 8.30 – 17.00)

2.0 TERMINOLOGY

2.1 Dwellinghouse

2.1.1 The Town and Country Planning (Use Classes) Order 1987¹ defines a dwellinghouse as a residence that is used (whether or not as a sole or main residence):

- a) by a single person or by persons living together as a family; or
- b) by not more than six residents living together as a single household (including a household where care is provided for residents); or
- c) by no more than six residents living together as a single household who do not fall into definition of House in Multiple Occupation (see below).

2.2 House in Multiple Occupation (HMO)

2.2.1 A house in multiple occupation (HMO) is not a dwelling house but covers shared houses or flats occupied by between three and six unrelated individuals who share basic amenities. The definition is the same as in section 254 of the Housing Act 2004.²

2.3 Large Houses in Multiple Occupation

2.3.1 A house with more than six people sharing are unclassified by the Used Class Order and in planning terms are therefore considered to be 'sui generis'. A change of use application is therefore required where a material change of use is considered to have taken place. That would be where the total number of residents has increased to the point where it can be said the use has intensified so as to become a different character or the residents no longer constitute a single household.

¹ www.legislation.gov.uk/uksi/1987/764/contents/made

² www.legislation.gov.uk/ukpga/2004/34/section/254

3.0 POLICY CONTEXT

3.1 National policy

3.1.1 Planning Policy Wales

This document sets out the land-use planning policies of the Welsh Government. It is supplemented by a series of Technical Advice Notes (TANs). Procedural advice is given in circulars and policy clarification letters.

3.1.2 Paragraph 3.1.7 states the following:

“The planning system does not exist to protect the private interests of one person against the activities of another. Proposals should be considered in terms of their effect on the amenity and existing use of land and buildings in the public interest. The Courts have ruled that the individual interest is an aspect of the public interest, and it is therefore valid to consider the effect of a proposal on the amenity of neighbouring properties. However, such consideration should be based on general principles, reflecting the wider public interest (for example a standard of “good neighbourliness”), rather than the concerns of the individual.”

3.1.3 Technical Advice Note 15: Development and Flood Risk (2004)

This document establishes a precautionary framework for assessing development proposals in flood-prone areas. In certain circumstances, developers may have to submit Flood Consequence Assessments in an attempt to justify their proposals. In especially vulnerable locations, however, even the principle of residential development is unlikely to be acceptable.

3.2 Local policy

3.2.1 Newport Local Development Plan 2011 – 2026 (Adopted Plan, January 2015)

Policy GP2 (General Amenity) states the following:

“Development will be permitted where, as applicable:

- i. There will not be a significant adverse effect on local amenity, including in terms of noise, disturbance, privacy, overbearing, light, odours and air quality;
- ii. The proposed use and form of development will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the surrounding area;
- iii. The proposal seeks to design out the opportunity for crime and antisocial behaviour;
- iv. The proposal promotes inclusive design both for the built development and access within and around the development;
- v. Adequate amenity for future occupiers.”

3.2.2 Policy H2 (Housing Standards) states the following:

“Residential development should be built to high standards of environmental and sustainable design, taking into account the whole life of the dwelling.”

Excerpt of supporting text:

“Residential development of all types, whether new development, redevelopment, conversions, extensions or changes of use, should be carried out in as sustainable way as possible, to reduce the impact on the environment both of the construction and subsequent use of the dwelling.”

3.2.3 Policy H8 (Self-contained Accommodation and Houses in Multiple Occupation) states the following:

“Within the defined settlement boundaries, proposals to subdivide a property into self-contained, bedsits or a house in multiple occupation will only be permitted if:

- i. The scale and intensity of use does not harm the character of the building and locality and will not cause an unacceptable reduction in the amenity of neighbouring occupiers or result in on street parking problems;
- ii. The proposal does not create an over concentration of houses in multiple occupation in any one area of the city which would change the character of the neighbourhood or create an imbalance in the housing stock;
- iii. Adequate noise insulation is provided;
- iv. Adequate amenity for future occupiers.”

3.2.4 Policy SP3 (Flood Risk) states the following:

“Newport’s coastal and riverside location necessitates that development be directed away from areas where flood risk is identified as a constraint and ensure that the risk of flooding is not increased elsewhere. Development will only be permitted in flood risk areas in accordance with national guidance. Where appropriate a detailed technical assessment will be required to ensure that the development is designed to cope with the threat and consequences of flooding over its lifetime. Sustainable solutions to manage flood risk should be prioritised.”

4.0 BACKGROUND

4.1 The conversion of properties to HMOs can make a valuable contribution to Newport's housing stock. For instance, HMOs can provide accommodation for a wide range of groups, including young professionals, students, migrants and persons on low incomes. In clusters, however, they can detract from the character of an area, leading to such problems as:

- Increased population density and greater demand for infrastructure and on-street parking;
- Potential physical deterioration of properties caused by lack of investment by absentee landlords;
- Higher proportion of transient residents leading to less community cohesion and underuse of community facilities;
- Areas with high HMO concentrations becoming unpopular with local residents, altering the character of the area;
- Increased demand for other services such as hot-food takeaways, bars, et cetera;
- A decline in pupil numbers at local schools;
- A proliferation of vacant properties in summer months.

5.0 GENERAL PRINCIPLES AND CONSIDERATIONS

5.1 Separate Houses in Multiple Occupation licensing and planning regimes

5.1.1 HMO Licensing under the Housing Act 2004

5.1.2 HMOs have required licences since June 2006. Newport City Council operates two HMO licensing schemes: Mandatory and Additional. The former relates to properties that comprise three or more storeys and accommodate five or more persons. The latter relates to properties that contain more than two households. HMO licences granted under both schemes are valid for five years. The council formally approved the Additional Licensing Scheme in December 2009 and renewed it for five years in June 2014.

5.1.3 The council's Public Protection, Environmental Health Housing team considers whether a property is safe and suitable for human habitation. It may revoke a licence if a HMO and/or its tenants are not properly managed. The licensing and planning regimes differ in their use of the term "house in multiple occupation". For licensing purposes, an HMO may be a shared house, a hostel, a guest house or a property containing bedsits, bed-and-breakfast facilities or self-contained converted flats. It will often be the case, therefore, that a local planning authority is unable to control a licensed HMO.

5.1.4 Planning

5.1.5 A local planning authority considers the land-use implications of HMOs. For instance, it may assess the likely effects on neighbours, the character of an area and the demand for on-street parking spaces. The Environmental Health licensing authority and the local planning authority have to exercise their powers independently of one another. It follows, therefore, that a proposal may receive an HMO licence, only to be denied planning permission, or vice versa.

5.1.6 A property constitutes a house in multiple occupation (HMO) when it is occupied as the main residence of three to six unrelated persons who, owing to physical, functional or legal arrangements, do not live together as a single household. Developers usually create HMO accommodation by converting existing buildings. Such proposals almost invariably require planning permission because they constitute a material change of use of the land and buildings. The change of use from a house to bedsits, flats, a hotel, a bed and breakfast, a guest house or a hostel will always require planning permission.

5.1.7 The diagram below show the HMO licensing process (this example relates only to a house).

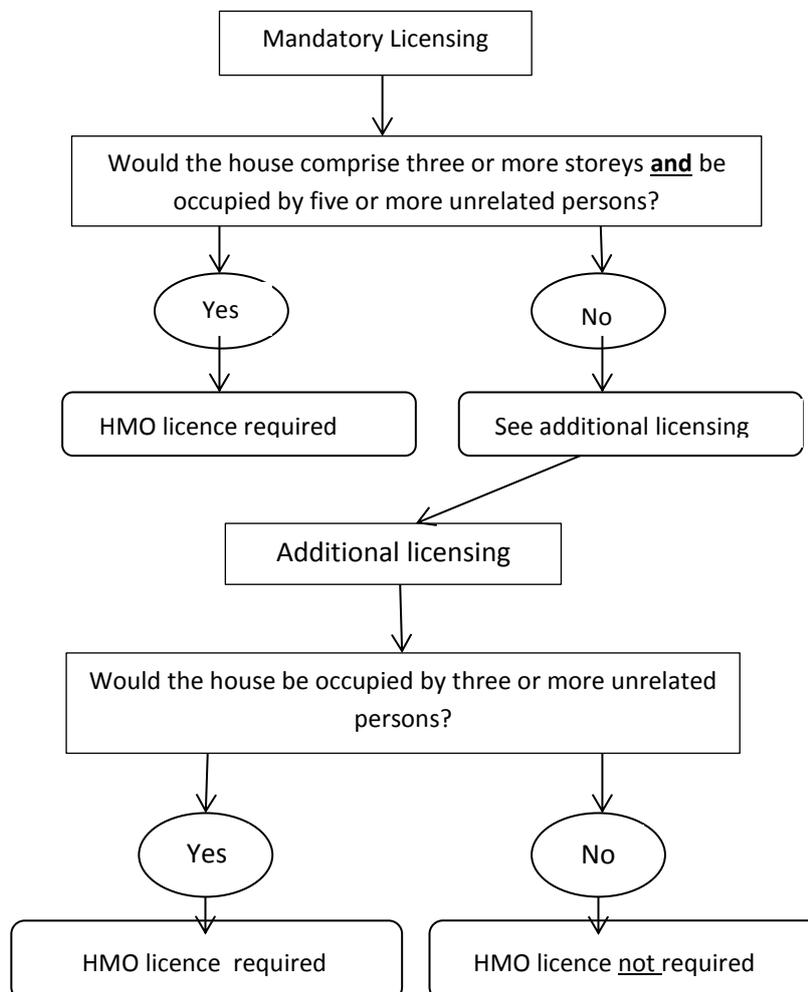


Figure 1: Establishing the need for an HMO licence

5.2 Assessing planning applications

- 5.2.1 This SPG applies only to HMOs that require planning permission. It will have no bearing on non-planning decisions, such as those relating to housing licences.
- 5.2.2 The Council will assess proposals for bedsits that have at least one shared amenity (e.g. a toilet, a bathroom or cooking facilities) in the light of this guidance.

5.3 Parking provision

- 5.3.1 Parking provision must comply with the Newport City Council Parking Standards Supplementary Planning Guidance 2015. Schemes that meet those requirements only by sacrificing entire amenity spaces are unlikely to be acceptable. The council will resist the loss of traditional front gardens and boundary treatments, both of which are important features in a streetscape.
- 5.3.2 Parking spaces must be capable of independent use (tandem parking will not be acceptable), and parking areas must allow vehicles to manoeuvre in a safe manner. To this end, developers may need to provide turning areas that allow vehicles to enter and leave the site in a forward gear. Visibility requirements for driveways and openings will vary according to local traffic speeds.
- 5.3.3 The council will use planning conditions to secure the provision of secure cycle parking for residents of HMOs.

5.4 Amenity considerations

- 5.4.1 Rooms should be arranged and designed in a manner that maximises the living standards of occupants. For instance, living rooms, kitchens and bedrooms should neither overlook adjoining properties nor face high boundary walls. Living rooms, moreover, should not be next to, directly above or directly below a bedroom in a neighbouring property.

- 5.4.2 Conversion schemes must reduce the transmission of sound (e.g. music and televisions) between floors, ceilings and adjoining rooms or properties by means of acoustic insulation. The council will use planning conditions to ensure that residents have reasonable living standards.
- 5.4.3 HMOs should provide outdoor amenity spaces in which residents can relax, dry their clothes and store refuse and recycling bins. Shared amenity spaces will be acceptable so long as they can accommodate every resident of the properties that they serve. In certain locations, such as the city centre or one of the district centres, the council may relax its requirements in respect of amenity spaces. Every HMO, however, must provide storage space for refuse and recycling bins.
- 5.4.4 A rear passageway will be acceptable as a primary access point only if it is wide, well lit and already used extensively for that purpose. In no circumstances may an HMO and a non-residential unit (e.g. a shop) share a single entrance.
- 5.4.5 The Council's Environmental Health (Housing Licensing) department provides guidance on room-size requirements for HMOs. In order to avoid complications, applicants ought to familiarise themselves with these standards before applying for planning permission.

5.5 Character of the area

- 5.5.1 National planning policy (Planning Policy Wales) requires local planning authorities to promote safe and attractive mixed-tenure communities. For the time being, though, HMOs are not evenly distributed throughout Newport. Certain electoral wards contain comparatively high numbers of HMOs, and the same is true for particular areas within those wards. Clusters of HMOs can alter the composition of a community and detract from local visual amenity. Some HMOs, for instance, may have poorly maintained exteriors and front gardens. Others may have had their front gardens

turned into parking areas. Many such properties, moreover, increase demand for on-street parking, making surrounding roads noisier and more cluttered.

- 5.5.2 The Council must confine its assessment of an HMO proposal to material planning considerations. It cannot consider the circumstances or likely behaviour of prospective residents.
- 5.5.3 This guidance introduces a threshold above which HMOs are considered to detract from the character of an area. The council will apply this threshold to planning applications in order to manage the distribution of HMOs throughout Newport.
- 5.5.4 A two-tier threshold limit has been identified for use. In general, the council will not support a planning application that would take the number of HMOs, considered as a proportion of the local housing stock, above a specified limit. In “defined areas” (see the HMO Threshold Map on p. 18), this limit is 15%; in other areas, 10%. Proposals that exceed these figures will be unsuccessful unless their implementation, judged in the light of all other material considerations, would serve the public interest. When considering a planning application, the council will bear in mind existing approvals in the surrounding area, even if the approved HMOs are not yet operational.
- 5.5.5 It is usually those who live in proximity to HMOs who feel their negative effects most keenly. For each proposal, therefore, the Council will use a radius to identify an area in which to apply the threshold limits identified. This area will include all residential properties the entire principal elevations (normally the front walls) of which lie within a 50-metre radius of the application site. In order to achieve consistency, the council will use its online mapping system to establish the radial area for a given property.
- 5.5.6 In certain areas of Newport, such as those with large residential plots or comparatively sparse development patterns, a fifty-metre radius may capture only a handful of properties. In such cases, the council will apply the relevant threshold to an area that contains at least 10 dwellings. Should a fifty-metre radius fail to capture the

required number of properties, the council will select the nearest 10 dwellings from the same side of the street as the proposed HMO.

5.5.7 A worked example for measuring the area of impact can be found on pp. 17-18. In practice the number of existing HMOs within the fifty meter radius will be checked by the case officer using data provided by the Environmental Health Housing team to ensure the most up to date information is used.

5.6 Design

5.6.1 Conversion proposals should not detract from the character and appearance of the building. Any conversion involving external alterations should respect the form, scale and materials of the original building and the visual character of the area. This includes the style and proportion of window and door openings.

5.7 Alterations to listed buildings

5.7.1 Listed-building consent may be required for both internal and external alterations to a listed building. Bearing in mind that it is a criminal offence to carry out unauthorised works to a listed building, the council recommends that developers seek guidance from the Historic Buildings Conservation Officer before submitting an application.

5.7.2 The council, when considering whether to grant planning permission for development that affects a listed building, has a statutory duty to “have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest that the building possesses” (Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990). Planning Policy Wales (Edition 6, February 2014) states that there should be a “general presumption in favour of the preservation of listed buildings” (Welsh Government, 2014: p. 93).

5.8 Alterations to buildings within conservation areas

5.8.1 Newport contains 15 conservation areas, the details of which may be found on the council's website. Permitted-development rights are curtailed in all conservation areas, but some rights are removed entirely from areas in which Article 4(2) Directions have been issued.

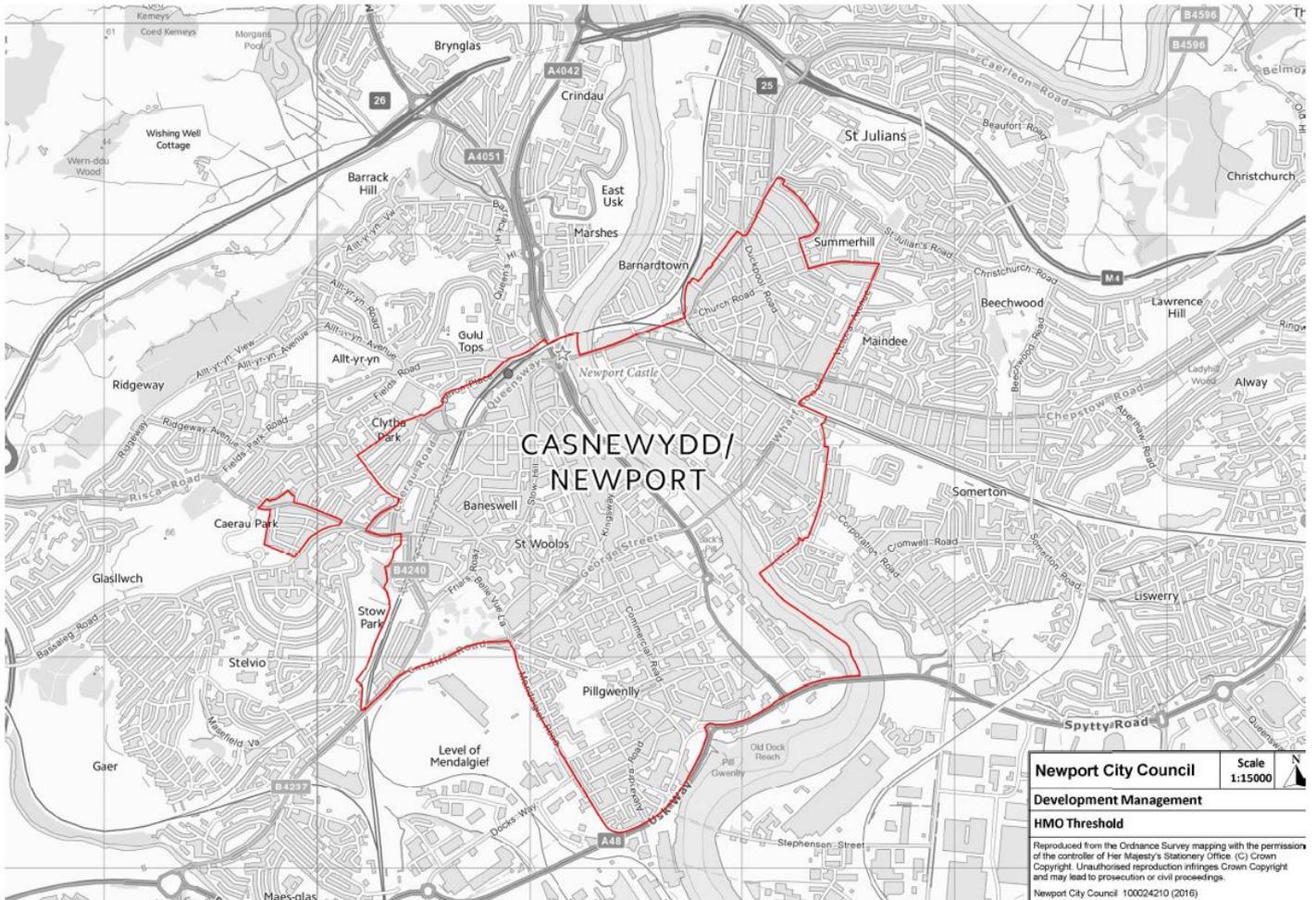
5.8.2 Newport City Council, when determining any planning application for development in a conservation area, has a duty to pay special attention to the "desirability of preserving or enhancing the character and appearance of [a conservation] area" (Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990). In every submission, therefore, the applicant should indicate precisely how the proposed development would appear in the context of its surroundings.

5.9 Design considerations

5.9.1 Where it is proposed to convert a ground floor shop or business unit into a residential unit, the design and final appearance should closely respect the upper storeys in terms of window style, size, spacing and the overall finish to match in terms of materials and detailing (e.g. lintels or sills).

6.0 HMO THRESHOLD MAP

Figure 2: HMO threshold map



6.1 Worked Example (15% threshold)

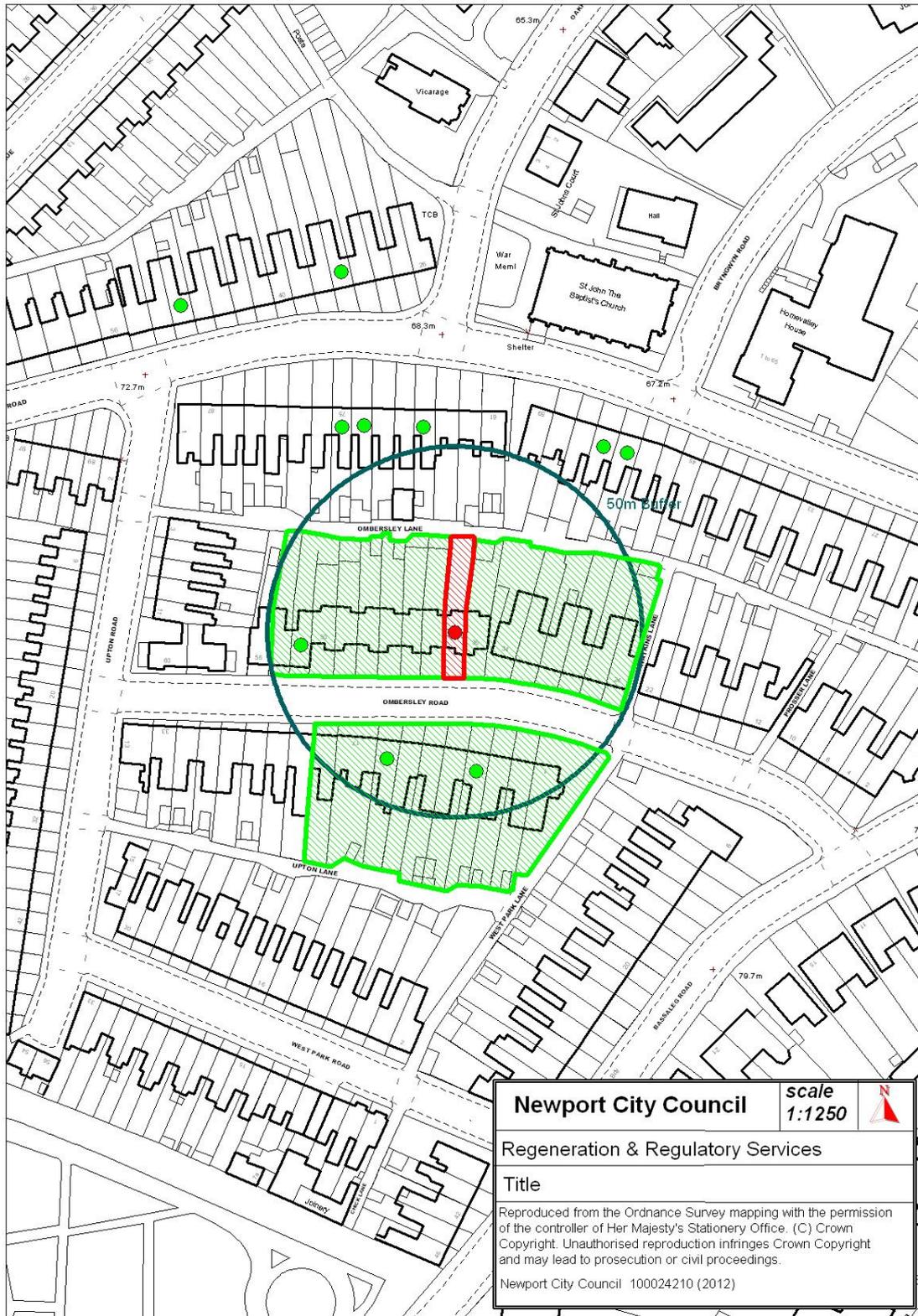


Figure 3: Worked example (15% threshold)

- 6.1.1 Figure 3 shows a residential property, outlined in red, at which a notional applicant wishes to create a HMO. A 50-metre radius, taken from the address point of the application site, creates a circular area for assessment. This area captures entire front elevations at 26 residential properties. Situated within the 50-metre radius are three licensed HMOs (denoted by green dots). Collectively, these constitute 11.5% (3 of 26 properties) of the selected housing stock. Were the proposal to proceed, however, HMOs would constitute 15.4% (4 of 26 properties) of that stock, exceeding the permitted threshold. The council, therefore, would refuse this application unless its implementation, judged in the light of all other material considerations, would serve the public interest.
- 6.1.2 The council's ishare mapping system is available at: <http://my.newport.gov.uk/iShare> (enter the address and then turn 50-metre radius on via the 'find nearest' tab on the left of the page). You can then overlay the Housing HMO layer to gain a general understanding of the number of HMOs in the direct area to the application site. Please note that this information is dated 2015 and for an up to date position please contact the Environmental Health Housing Section of the Council.

Note:

- Each building constructed as, or converted into, flats will be counted as one property.

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