

Houses of Multiple Occupation in Bromley

Evidence Base

May 2021

1. Background

1.1. In basic terms, a House in Multiple Occupation (HMO) is a home occupied by more than one household; however, HMOs are defined in a number of ways by different Council and government departments for the purposes of planning, housing and council tax. The purposes of these regimes are distinct, and the differences between HMO definitions in relation to the numbers of occupants are such that they do not align comfortably.

1.2. A 2008 report by the Ministry of Housing, Communities and Local Government (MHCLG) 'Evidence Gathering – Housing in Multiple Occupation and possible planning responses Final Report'¹ noted that:

'HMOs consist of a variety of property types including: bedsits, shared houses, households with lodger, purpose-built HMOs, hostels, guesthouses, bed and breakfast establishment and self-contained flats, although not all of these accommodation types fall within the planning definition of an HMO or a housing definition of an HMO as defined under the 2004 Housing Act. However, it should be noted that despite the legal definitions of what constitutes an HMO, some properties such as shared houses where up to 5 or so individuals live together, are often regarded by some stakeholders as houses in multiple occupation' (Paragraph 2.1)

1.3. Local authorities have a mandatory licence requirement for certain types of HMOs to ensure they are properly managed and maintained and kept safe. There is scope for Local Authorities to extend the licencing regime to require licences for HMOs not falling within the mandatory licencing regime, either by area (selective licencing) or by type (additional licencing).

1.4. Planning permission is required for larger HMOs which are not considered to fit within any particular planning use class. However, within the last decade there has been a significant increase in the number of family homes being converted into small HMOs through permitted development (PD) across London, including conversions which achieve National Minimum Standards² (known to licencing as "minimum standards HMOs"). Across parts of London where evidence suggests that concentrations of HMOs have caused harm, there has been an increased use of Article 4 Directions which require planning applications to be submitted for changes of use, which would otherwise have fallen under PD.

2. Legislation, policy and guidance

Planning

¹<https://webarchive.nationalarchives.gov.uk/20120919230509/http://www.communities.gov.uk/documents/planningandbuilding/pdf/evidencegatheringresearch.pdf>

²https://www.rla.org.uk/landlord/guides/housing_act/docs/all/minimum_national_amenity_standards_for_licensable_hmos.shtml

- 2.1. The Town and Country Planning (Use Classes) Order 1987 (as amended), planning classifies two categories of HMO:
- A small HMO is defined as a dwelling that is occupied by between **3 and 6 unrelated individuals** who share basic amenities such as a kitchen or bathroom. A small HMO is classified as a '**C4**' use within the Use Class Order, 2015. Single dwelling houses (classified as C3 use) have PD rights to change use to a C4 use and vice-versa without the need for planning permission under The Town and Country Planning, (General Permitted Development) (England) Order 2015 ("the GPDO").
 - A large HMO is defined as a property that is occupied by **more than 6 unrelated individuals** that share basic amenities such as a kitchen or bathroom. A large HMO is classified as **Sui Generis** (a use that does not fall in any Class). The creation of a large HMO requires planning permission.
- 2.2. When the current PD regime for small HMOs came into force (April 2010) the explanatory memorandum³ to the amendment advised that *'the Government considered that this [requirement for planning permission] is imposing an unnecessary regulatory burden on landlords and local authorities in the areas where HMO development is not causing problems'* (paragraph 7.3).
- 2.3. The memorandum recognises that HMOs can cause problems – increased noise and loss of community balance are the two examples given – where there are high concentrations, but also that they *'In many areas HMOs are either not of concern or are considered to be a valuable source of low cost housing'*.

National planning policy and guidance

- 2.4. The National Planning Policy Framework (NPPF) does not make specific reference to HMOs but refers to assessing housing need:
- 'size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes.'*(paragraph 61)
- 2.5. The NPPF (paragraph 2) highlights the requirement in planning law for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Currently permission is only required for larger HMOs of 7 or more people.
- 2.6. Bromley's Development Plan consists of the London Plan 2021 and the Bromley Local Plan 2019. The London Plan 2021 is the most up-to-date Development Plan Document for the London Borough of Bromley, and therefore, in accordance with section 38(5) of the Planning and Compulsory

³ https://www.legislation.gov.uk/ukxi/2010/2135/pdfs/ukxiem_20102135_en.pdf

Purchase Act 2004, *“if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.”*

London Plan (2021)

2.7. The London Plan 2021 acknowledges the potential positive and negative impacts of HMOs and aims to achieve high standards of residential quality and design and ensure mixed and balanced communities.

2.8. Policy H9 Ensuring Best Use of Stock, clause D, states

‘Boroughs should take account of the role of houses in multiple occupation (HMOs) in meeting local and strategic housing needs. Where they are of a reasonable standard they should generally be protected’

2.9. Supporting text paragraph 4.9.4 highlights the role of HMOs and generally seeks to protect them. Authorities considering article 4 directions to restrict their C3 to C4 PD rights should take into account their strategic and local importance in terms of addressing housing need:

‘Houses in multiple occupation (HMOs) are an important part of London’s housing offer, reducing pressure on other elements of the housing stock. Their quality can, however, give rise to concern. Where they are of a reasonable standard they should generally be protected and the net effects of any loss should be reflected in Annual Monitoring Reports. In considering proposals which might constrain this provision, including Article 4 Directions affecting changes between Use Classes C3 and C4, boroughs should take into account the strategic as well as local importance of HMOs.’

2.10. The Mayors Housing SPG 2016, in referring to large houses also advises that a careful balance needs to be struck *“between local concerns, such as those to protect large houses for local family occupation, and the contribution they can make to meeting strategic and local needs if converted to HMOs”* (paragraph 3.4.2).

Bromley Local Plan (2019)

2.11. The Bromley Local Plan vision for ‘Homes’ reads:

‘A range of decent homes of different types and sizes are available and housing supply is tailored to local needs. Any new housing complements and respects the character of the neighbourhood in which it is located, paying particular attention to the density of development, parking requirements and improving the choice of accommodation available.’ (paragraph 1.3.6)

2.12. Local Plan objectives for homes are set out in paragraph 1.3.7:

- *Ensure there is an appropriate supply of homes to meet the varied needs and incomes of the local population, which responds to changing demographics, in particular as the population ages.*
 - *Ensure new residential development, extensions and conversions complement and respect local character.*
 - *Ensure new homes are designed to minimise environmental impact and are supported by appropriate social and environmental infrastructure.*
- 2.13. The Local Plan includes policies relating to HMOs, notably Policy 9 which seeks to address the potential negative impacts associated with conversions, including to non-self-contained units, as well as policies relating to housing need.
- 2.14. Policy 1 Housing Supply sets out a number of ways in which the Borough's housing target will be achieved, including "g - *The provision of suitable non self-contained units*" (which includes houses in multiple occupation).
- 2.15. Policy 9 Residential Conversions sets criteria for planning applications for the conversions of single dwellings into two or more self-contained units or non-self-contained accommodation, advising that such conversions will be permitted provided that:
- a) *the amenities of occupiers of neighbouring dwellings will not be harmed by loss of privacy, daylight or sunlight or by noise and disturbance and;*
 - b) *the resulting accommodation will provide a high quality living environment for the intended occupiers and;*
 - c) *on and off street parking resulting from the development will not cause unsafe or inconvenient highway conditions and;*
 - d) *the character and appearance of the area is not adversely affected and;*
 - e) *there will not be a detrimental impact on housing choice in the locality and where accommodation at ground floor level is proposed, preference is given for family housing units with direct access to a garden, and safe and secure access is provided to each dwelling.*
- 2.16. The supporting text advises that the policy seeks to ensure that older properties are efficiently used to increase the choice and supply for smaller households as an alternative to purpose-built flats. It refers to the conversion of houses that are 'too large for single occupation' and notes that the existing housing stock comprising of small and medium size family dwellings continues to play an important role in meeting housing need.
- 2.17. The potential adverse external effects of conversions are set out in paragraph 2.1.72 which clarifies that the Council will resist conversions where they may result in a traffic hazard and be detrimental to the amenities of the residential area by reason of noise, visual impact or other inconvenience
- 2.18. Supporting text 2.1.73 relates specifically to non-self-contained units, advising that *'they should be retained and improved where appropriate. Applications for non-self-contained accommodation will be supported if they provide a high standard living environment as defined in this and other policies in the plan.*

Proposals for non-self-contained should also ensure that the relevant Environmental Health standards are met.'

- 2.19. Policy 4 Housing Design requires all new housing developments to achieve a high standard of design and layout whilst enhancing the quality of local places. Housing schemes will also need to respect local character, spatial standards, physical context and density. The policy sets out a number of criteria which are expected to be demonstrated.
- 2.20. Supporting text paragraph 2.1.55 advises that '*Consideration should be given to the standards alongside the achievement of other objectives in the London Plan. The standards apply to new build, conversions and changes of use but not to specialist housing, however the Council will still expect a satisfactory standard of accommodation to be provided in applications relating to specialist housing (student, sheltered and HMO accommodation)*'.

Housing Need and Supply

- 2.21. The Bromley Housing Strategy (2019 – 29)⁴ advises that demand for affordable housing dramatically outstrips supply. Homelessness applications are increasing, and the need for homes, particularly those at a social rent, is growing all the time. The Strategy notes that Bromley has a lower proportion of socially rented housing than anywhere else in London – 14%, compared to an average of 23%.
- 2.22. Nationally the private rented sector currently makes up 19% of the total housing stock in England. Whilst the private rented sector has grown steadily in recent years, it remains relatively small. The Housing Strategy has identified approximately 21,000 privately rented homes across the borough, – 14% of all housing, including some wards exceeding 19%. The average across London is 27%
- 2.23. The Bromley Homelessness Strategy 2018-2023⁵ advises that one of the causes of rising levels of homelessness within Bromley is the affordability gap and reduced supply of lettings. It advises that many individuals and families simply find themselves priced out of the local market and have little option other than to approach the local authority for assistance.
- 2.24. The South East London Strategic Housing Market Assessment (SHMA) (2014)⁶ covering Bromley, Bexley, Lewisham, Southwark and Greenwich , indicated that all boroughs, including Bromley, had a significant under-supply of one-bedroomed units against demand as measured by the bedroom standard (Table 36).

⁴ https://www.bromley.gov.uk/download/downloads/id/5122/bromley_council_housing_strategy_2019-2029.pdf

⁵ https://www.bromley.gov.uk/info/200052/housing_advice_and_options/1182/homelessness_strategy_2018-23

⁶ https://www.bromley.gov.uk/download/downloads/id/3046/sd31_south_east_london_strategic_housing_market_assessment_2014.pdf

- 2.25. The SHMA notes that in Bromley and Bexley, family accommodation predominates, when compared to Lewisham, Southwark and Greenwich, and it suggests, on the basis of London findings of the English Housing Survey (2009 – 2012), that this may be attributable to income bands within the differing boroughs. Bromley & Bexley exhibited a greater share of higher income bands, whilst lower median incomes were noted in Lewisham, Southwark and Greenwich, where the housing stock is generally more suited to the housing of smaller households (paragraph 4.37).
- 2.26. The SMHA highlights that cost concerns play an important part in influencing household space consumption decisions and highlights that over the long term, the market has adjusted the housing stock in London to create smaller units in response to cost pressures, including through the conversion of single family houses into flats. It advises that further pressures for adjustments of the existing housing stock of this kind must be expected in London, given the intensification of demand and resultant squeeze on affordability (paragraph 6.15).
- 2.27. The London SHMA advised that growth in the private rented sector has been particularly rapid in recent years, from around 15% of London’s households in the early 1990s to around 27% in 2017. Average rents also rose more quickly in London than in the rest of England both before and after the 2009 recession.
- 2.28. The GLA Quarterly Housing Market Report 02 March 2021⁷ indicates that whilst asking rents in Inner London have fallen sharply in the last year, they have remained steady in Outer London.

Licencing

- 2.29. The 2004 Housing Act (sections 254 & 257) defines a HMO where a building or part of a building
- *“is occupied by more than one household and where more than one household shares, or lacks an amenity, such as a bathroom, toilet or cooking facilities;*
 - *is occupied by more than one household and which is a converted building, but not entirely into self-contained flats (whether or not some amenities are shared or lacking); and or,*
 - *is converted into self-contained flats, but does not meet as a minimum standard the requirements of the 1991 Building Regulations (known as S275 HMOs), and at least one third of flats are occupied under short tenancies.”*
- 2.30. To regulate the management and safety of larger, more complex HMOs, in response to the risk from hazards associated with fire and poor hygiene, the Housing Act 2004 introduced a national mandatory licensing scheme for all

⁷ <https://s3-eu-west-1.amazonaws.com/airdrive-images/wp-content/uploads/sites/6/20210302181638/Quarterly-housing-market-report-Q4-2020-web-version.pdf>

three storey HMOs occupied by five or more unrelated persons. The legislation became operative on 6 April 2006.

- 2.31. New regulations came into force on 1 October 2018 which removed the 'three or more storeys' criteria, effectively extending the mandatory scheme to include most houses and flats occupied by five or more people in two or more households who share a kitchen, bathroom and/or toilet facilities.
- 2.32. The purpose of the mandatory licensing regime is to ensure that HMOs for 5 or more people - those that are likely to present the most significant health and safety risks - are known to the local authority, requiring evidence that appropriate management arrangements have been made for the property, and that internal conditions are satisfactory.
- 2.33. Licenced HMOs include those licenced for 7 persons and above (Sui Generis Use Class) and HMOs accommodating 5 or 6 people (Planning Use Class C4) which do not currently require planning permission; however this mandatory licencing scheme does not include smaller Use Class C4 HMOs of 3 or 4 people.
- 2.34. A licence holder commits an offence if, without reasonable excuse, the licence holder breaches the licence by:
 - knowingly permitting the HMO to be occupied by more persons or households than is authorised by the licence;
 - failing to comply with a condition of the licence such as a prohibition against occupation as sleeping accommodation.
- 2.35. The guidance advises that if convicted for such an offence the licence holder is liable to an unlimited fine but that the local housing authority may impose a financial penalty of up to £30,000 as an alternative to prosecution.
- 2.36. It advises that local housing authorities should consider this within their compliance and enforcement policies and devise a proportionate process for dealing with landlords in breach. Furthermore, the expectation, in common with general prosecuting functions, would be that a local housing authority should only proceed with a prosecution if it is in the public interest to do so.
- 2.37. A local authority may refuse to grant a licence, in the following circumstances:
 - The HMO is exempt or ineligible for licensing.
 - The HMO cannot be physically or practically brought up to the standards required by the local authority.
 - The proposed Licence holder or manager is not a fit and proper person.
- 2.38. In addition to the mandatory scheme, each council has the power to introduce additional or selective licensing schemes under Part II of the Housing Act 2004, and these schemes run on a rolling 5-year basis.
 - Additional HMO licensing – this can be imposed on types of HMOs that do not meet the criteria for a mandatory licence to help manage a wider range of HMOs. For example, an additional licence scheme could be applied to smaller privately rented shared houses, HMOs or those occupied by a

particular social group such as students. A Council decides on what type of HMOs need a licence. For example, Newham Council has included all HMOs within its additional licensing scheme subject to a small number of statutory exemptions, Hounslow only covers properties that are two or more storeys high occupied by four or more people in two or more households, and Brent applies the scheme to all privately rented properties occupied by three or more people making up two or more households, regardless of the number of storeys in the property.

- Selective HMO licensing - applies to all other privately rented single family dwellings within a designated area.

2.39. A Local Authority can introduce either scheme or both (dependent on evidence); these schemes are discretionary, and how they typically work is that landlords of eligible properties pay for a licence, their properties, are subjected to legal checks.

3. HMO data

Licensed HMOs

- 3.1. Bromley currently has **175 licenced HMOs**, as identified through the mandatory licensing regime. This quantum has increased since July 2018 when Bromley had 82 mandatory registered HMOs, due largely to the widened mandatory licensing regime which came into force in October 2018. A council report published in advance of the October 2018 changes anticipated an increase to 219 registrations, to cover all HMOs of 5 or more individuals; however, this scale of increase did not materialise.
- 3.2. Appendix 1 maps the locations of licenced HMOs within the Borough and the maximum number of people in the property. The map indicates the areas of greatest intensity of HMOs, notably a loose but distinct cluster along the Cray Valley to Orpington and tighter clusters in Bromley Town Centre (following the general line of the A21 from Bromley Common to the boundary with Lewisham); in Beckenham Town Centre; and in the area of Penge & Anerley.

Table 1: HMO Licences by Planning Use Class and Postcode, based on figures available at end of April 2021

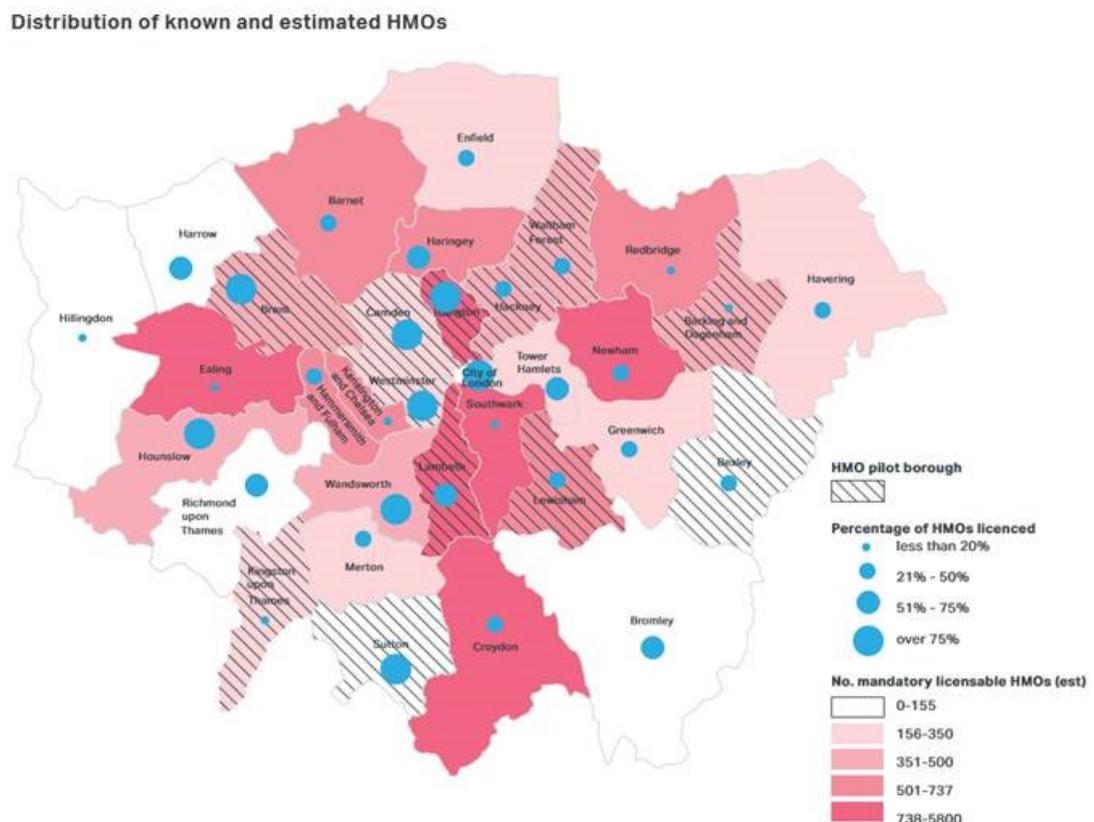
HMO Licences	Planning Use Class	Number of Licences	Spread by postcode	Licences within postcode
5 person & 6 person	C4	108	BR1 (Bromley Town Centre)	21
			BR2 (Bromley Common)	12
			BR3 (Beckenham)	15
			BR4	1
			BR5 (Cray Valley)	23
			BR6 (Orpington)	13
			BR7	2
			SE19	1
			SE20 (Penge)	14
			SE26	5
			SE9	1
7 persons and above	Sui Generis	67	BR1 (Bromley Town Centre)	14
			BR2	7
			BR3 (Beckenham)	11
			BR5 (Cray Valley)	12
			BR6	8
			BR7	2
			SE19	1
			SE20 (Penge)	11
SE9	1			
Total		175		175

- 3.3. 40 of the 172 licensed HMOs (23% of the total, and 37% of the Planning Use Class C4 HMOs) are flagged by the Bromley’s licencing teams as ‘minimum standards’ (see paragraph 1.4 above for definition)
- 3.4. Of the 40 ‘minimum standards’ HMOs, 26 are located with BR5 postcode, mainly in the Cray Valley. In some cases, multiple HMOs are in close proximity including an instance of 3 ‘minimum standards’ HMOs in a single road.
- 3.5. As discussed in paragraph 3.22 below, officers are aware of interest from several HMO providers who wish to purchase property in the Borough and convert to HMOs. This includes interest in properties in Biggin Hill; this has not yet manifested in formal figures although there has been some coverage in local media⁸. The 2011 Census data suggests Biggin Hill had no ‘shared household spaces’ ten years ago.
- 3.6. Licencing receive many contacts from the public regarding suspected and / or problematic HMO properties. The Housing Enforcement Team (HET)

⁸ News Shopper article, Biggin Hill: Calls for planning approval for HMO conversions, 15 April 2021, available from: <https://www.newsshopper.co.uk/news/19235736.biggin-hill-calls-planning-approval-hmo-conversions/>

- 3.11. The Mayor of London / GLA (2018) study ‘Piloting the London Office of Data Analytics’¹⁰ looked at how London’s boroughs and public sector bodies could share and analyse their combined data to tackle a public service challenge. The pilot looked specifically at the problems associated with HMO data, bringing together 12 boroughs to develop and test a machine-learning model to find unlicensed HMOs.
- 3.12. Figure 1 indicates the pilot Boroughs and provides an indication of the extent of across London of Mandatory Licenced HMOs (note Bromley’s figure is an estimate – the latest licensing data shows Bromley has now exceeded 155 licenced HMOs) and the percentage of licenced HMOs.

Figure 1 – distribution of known and estimated HMOs¹¹



- 3.13. The report set out a number of lessons learned, notably relating to joining up and matching records held in different IT systems within their own organisations and challenges collaborating with other organisations with their data, noting ‘It is simply too difficult and time consuming to conduct this process manually, especially during experiments where different datasets need to be explored.’

Smaller currently unregulated HMOs 3 and 4 person

¹⁰ https://media.nesta.org.uk/documents/loda_pilot_report.pdf

¹¹ <https://londondatastore-upload.s3.amazonaws.com/LODA%20pilot%20report.pdf>

- 3.14. There is current a lack of reliable data relating to smaller 3 and 4 person HMOs. Council Tax data may provide some further details but, at the time of writing, officers have been unable to access relevant data.
- 3.15. The Census provides information on shared 'household spaces' and therefore includes all HMOs of whatever size. The maps at Appendix 2 and 3 indicate the numbers of properties within lower super output areas in the Borough with 2 shared household spaces and 3 or more shared spaces. The 2011 census is now significantly out of date and although it identifies shared households it does not provide clarity on the exact number of persons within those households. It does however indicate that properties containing shared households were relatively few in 2011, and generally located towards the North West of the Borough.
- 3.16. Census 2021 data is expected to become available in 2022. This information should provide a more up-to-date picture of the level of smaller HMOs in the Borough.

Planning Appeals

- 3.17. Within the last 5 years, there have been 4 planning appeals relating to larger Sui Generis HMOs or smaller HMOs as part of mixed schemes; 3 of these appeals were dismissed and 1 is currently in progress. Details of these appeals are set out in Appendix 4. The Inspectors decision letters highlight main issues as:
- the living conditions of occupants
 - the impact on the character of the locality;
 - the impact of noise and disturbance on neighbouring occupants; and
 - the impact of car parking.

Planning Investigation

- 3.18. Since 2015, the planning enforcement team have investigated 47 properties in respect of Planning breaches for larger (Sui Generis) HMOs. Table 2 below indicates that 24 properties, over half of those investigated, were not in breach of planning regulations, most likely by virtue of PD rights afforded to HMOs of less than 7 people. It is also noteworthy that there has been a significantly increasing number of investigations, with the majority of cases - 30 properties - being registered for investigation within the last 16 months (2020 and 2021), including 6 in Biggin Hill in 2021 alone.

Table 2 Planning Investigation Cases since 2015

Year	Planning Investigations relating to HMOs	No Breach	Other (eg notice served or permission)	Current Investigation
2015	2	2	-	-
2016	3	1	2	-
2017	6	5	1	-
2018	3	1	-	2
2019	3	2	1	-
2020	14	7	1	6
2021	16	6	-	10
Total	47	24	5	18

Housing

- 3.19. GLA ward profiles 2014 (based on the 2011 census) highlighted four wards that had 19% or more of its housing tenure within the Private Rented Sector (PRS), namely Penge & Cator (20.3%) Bromley Town (22.7%), Copers Cope (27.7%) and Crystal Palace (29.7%).
- 3.20. The Bromley Homelessness Strategy (2018- 2023) advises that historically Bromley has been successful in assisting homeless households to secure private rented accommodation as a long-term housing solution. However rising rents overtaking and leaving behind the Local Housing Allowance and the loss of direct housing benefit payments to landlords means that the private rented sector in Bromley is out of reach for an increasing number of households.
- 3.21. Historically, Bromley’s Housing Team have not actively procured any HMOs for clients due to concerns about the household spaces being offered and the long-term sustainability of such placements. However, the introduction of the Homeless Reduction Act 2017, and the recent amendments to the Code of Guidance as a result of the pandemic, mean that there will likely be an increase in the number of single people that Bromley will need to assist, with limited affordable accommodation available. The Everyone In initiative, which launched during the first national lockdown, saw Local Authorities required to provide immediate accommodation assistance to all those who were at the time sleeping rough or at risk of ending up on the streets. Local Authorities have been tasked with securing long-term housing solutions for these clients. As of May 2021, there were 58 individuals requiring accommodation as a result of this initiative, the majority of which have little to no ongoing support needs. It is possible that HMOs could become a potential option for housing residents in need, provided the accommodation is of a specific standard.

HMO Providers

- 3.22. There are known to be a number of HMO providers actively seeking properties in the Borough. These providers typically use PD rights to convert housing into ‘minimum standard’ HMOs, which are often used as

accommodation in connection with supported living, homeless persons, local and central government placements and housing benefit claimants. This is often due to a shortage of suitable affordable accommodation for this client base in the Greater London area.

Geographic Spread / Areas of Change

- 3.23. The 2011 Census highlighted the area to the NW of the Borough as having a greatest, although still relatively small, number of shared household spaces. This also reflects the wards with the highest percentage of PRS.
- 3.24. Licencing data indicates greater numbers of HMOs, particularly 'Minimum Standards' HMOs, in the Cray Valley, notably 23 in the BR5 post code area. Whilst 23 properties operating as HMO is not particularly significant across larger areas, there may be more chance of adverse impacts where the properties cluster in very close proximity.
- 3.25. Section 4 notes that several adjacent Boroughs have introduced Article 4 Directions to restrict C3 to C4 PD rights. While this is not in itself material for any justification for a Direction in Bromley, it is recognised that Directions in adjacent Boroughs could have the effect of driving demand to Bromley if HMOs become more difficult to develop in these adjacent Boroughs. There is no evidence that this has occurred to date, but as part of maintaining an up-to-date evidence base, officers will monitor this to see if any trends materialise.

4. Options for controlling HMOs

Licencing

- 4.1. The discretionary additional and selective schemes can only be introduced if the Council is satisfied that there are problems with low housing demand or significant and persistent problems of Anti-Social Behaviour linked to the privately rented homes in that area. The law states that any decision to implement a discretionary scheme must be consistent with the Council's housing strategy and must be part of a coordinated approach for dealing with homelessness, empty homes and anti-social behaviour. In addition, in considering whether to designate an area for discretionary licensing, the authority may only make a designation if the area has a high proportion of property in the private rented sector (PRS).
- 4.2. Discretionary schemes can only be sought where the number of privately rented properties in a given area is more than 19% (the national average) and therefore it would not be possible to apply a scheme on a borough wide basis. Whilst certain wards have more than 19% PRS, potentially enabling selective area licencing, this needs to be supported by low housing demand or significant and persistent problems of Anti-Social Behaviour linked to the privately rented homes.

- 4.3. The Council's Public Protection team have investigated the potential for expanding the licencing regime. However, at this time, it is considered that there is insufficient evidence to support an expansion.

Article 4 Directions

- 4.4. Article 4 Directions are a tool to restrict the scope of PD rights (such as the C3 to C4 PD right) either in relation to a particular area or site, or a particular type of development
- 4.5. Article 4 directions can be either immediate or non-immediate. Immediate directions can be made where the development presents an immediate threat to local amenity or prejudices the proper planning of an area, however, the local planning authority (LPA) must have already begun the consultation processes towards the making a non-immediate article 4 direction. An immediate direction must be confirmed by the LPA within 6 months of coming into effect, in order to remain in force.
- 4.6. Non-immediate Directions should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. The potential harm that the direction is intended to address should be clearly identified. There should be justification for both its purpose and extent - a particularly strong justification for the withdrawal of PD rights relating to those covering the entire area of a local planning authority.
- 4.7. The LPA must invite representations on any immediate or non-immediate Directions and take these representations into account before making any decision whether to confirm a Direction.
- 4.8. Planning Practice Guidance (Paragraph: 038 Reference ID: 13-038-20190722) states that:
- 'The use of article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. The potential harm that the direction is intended to address will need to be clearly identified, and there will need to be a particularly strong justification for the withdrawal of permitted development rights relating to... a wide area (eg those covering the entire area of a local planning authority...)*
- 4.9. As soon as practicable after confirming an article 4 direction, it is necessary to inform the Secretary of State (SoS). The SoS can modify or cancel Directions.
- 4.10. Making an immediate Article 4 Direction leaves the Council liable to claims of compensation if it then subsequently refuses planning permission for development which would otherwise have been PD; or grants planning permission subject to more limiting conditions than the GPDO. The grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of PD rights.

- 4.11. Where local authorities give at least 12 months' notice of directions coming into effect (non-immediate article 4 directions) they will not be liable to pay compensation; however, where they issue directions with less than 12 months' notice they will be liable to pay compensation in relation to applications which are submitted within 12 months of the effective date of the direction.
- 4.12. PD rights can also be removed from new developments by condition imposed on new development.
- 4.13. The use of article 4 directions to bring smaller HMOs within planning control has become increasingly common across London, with Bromley's five immediate London borough neighbours all having faced significant HMO pressure leading them to introduce article 4 directions, either to specific streets (Southwark), wards (Lewisham) or borough-wide (Croydon, Bexley and Greenwich).
- 4.14. It is likely that smaller-scale Directions (e.g. by street) would be related to an immediate issue that has been identified and is supported by evidence, and hence would likely need to be an immediate Direction in order to effectively tackle the identified issue. As noted above, this would attract compensation liability which is a significant financial risk even if the Direction only affects a small number of properties. With larger-scale Directions, stronger justification is required as noted in the PPG.
- 4.15. As Table 3 below indicates, most London boroughs have complimented this planning control with expansion of their licencing regimes to smaller HMOs not already covered by the mandatory scheme (i.e. those occupied by 3-4 people), either by area or borough-wide (BW).

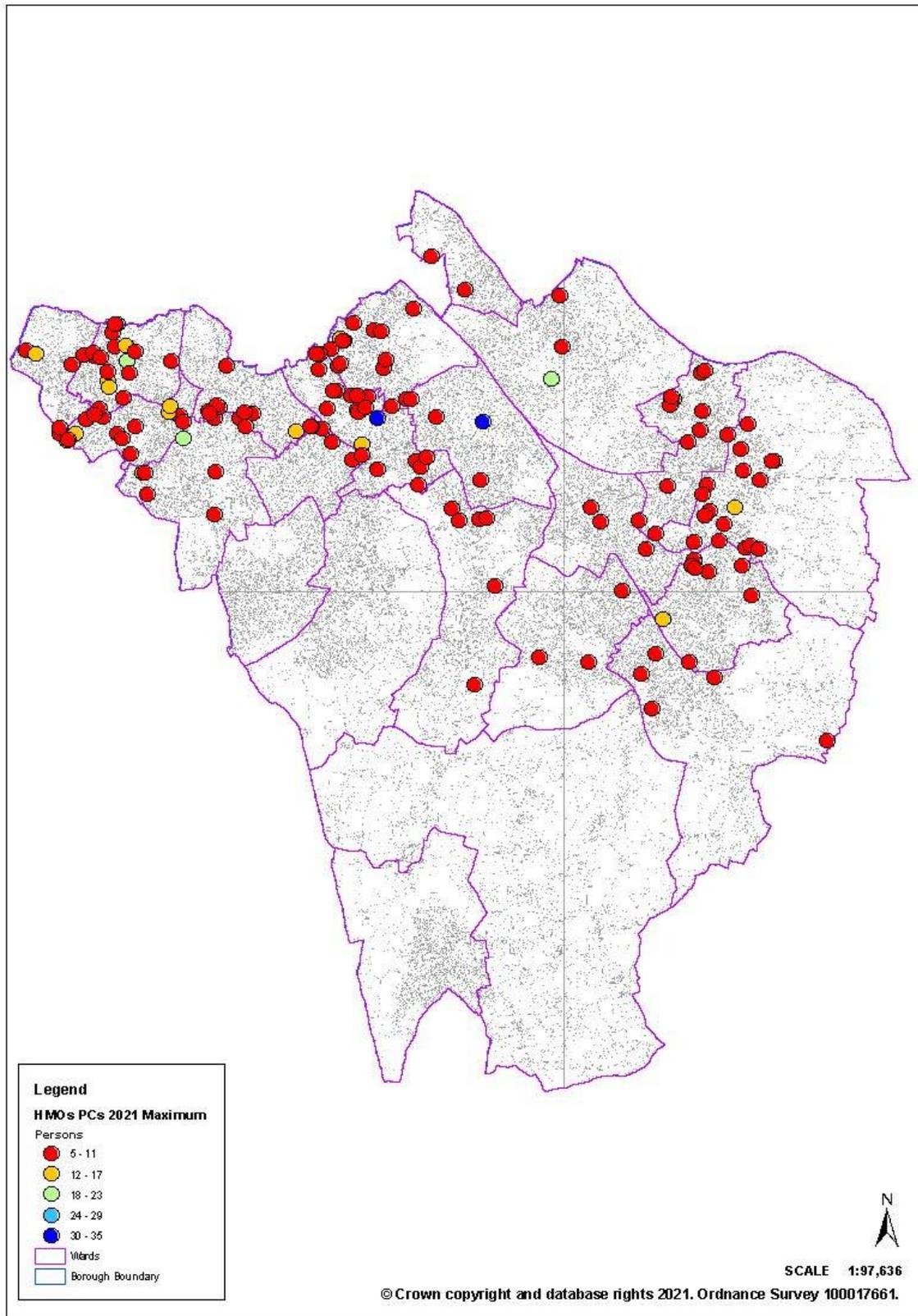
Table 3 Planning & Licencing Regimes (Spring 2021)

Borough	Selective licensing	Additional licensing	Article 4
Barking & Dagenham	Y	N	Y(BW)
Barnet	N	Y(BW)	Y(BW)
Bexley	Y	N	Y(BW)
Brent	Y	Y(BW)	N
Bromley	N	N	N
Camden	N	Y(BW)	N
City of London	N	N	N
Croydon	Y(BW) –seeking renewal	N	Y(BW)
Ealing	Y	Y(BW)	N
Enfield	N	Y(BW)	Y(BW)
Greenwich	consulting	Y(BW)	Y(BW)
Hackney	Y	Y(BW)	N
Hammersmith & Fulham	Y	Y(BW)	N
Haringey	N	Y(BW)	Y(BW)
Harrow	Y	Y(BW)	Y(BW)

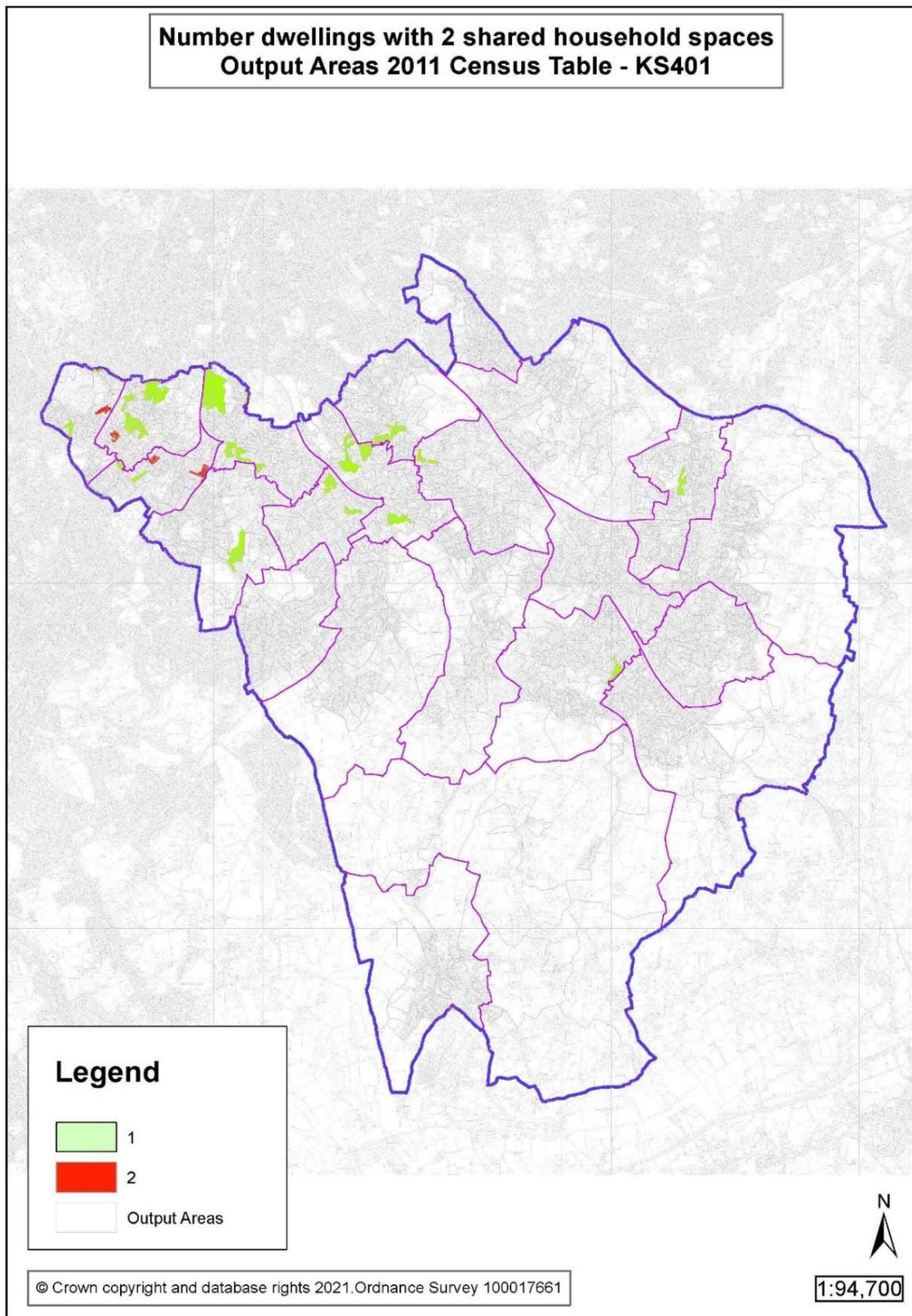
Havering	Y	Y(BW)	Y(BW)
Hillingdon	N	N	Y(BW)
Hounslow	N	Y(BW)	Y(BW)
Islington	Y	Y(BW)	Y(BW)
Kensington & Chelsea	N	N	Y(BW)
Kingston Upon Thames	Y	Y(BW)	Y(BW)
Lambeth	N	N	Y(BW)
Lewisham	N	Y(BW)	Y(BW)
Merton	N	N	Y(BW)
Newham	Y (almost BW)	Y(BW)	Y(BW)
Redbridge	Y	Y(BW)	Y(BW)

- 4.16. Southwark Council introduced two article 4 directions in 2014 and 2016 responding to specific areas of concentrated HMO pressure, whilst Royal Greenwich made a non-immediate Article 4 direction to withdraw this PD right boroughwide in 2018 and currently has over 700 licenced HMOs.
- 4.17. In 2017 Bexley confirmed a Boroughwide article 4 direction on the basis of analysis involving a range of data sources including census and private rental sector data, which, in addition to the 380 known HMOs predicted a further 1,025 HMOs across the borough.
- 4.18. Following the introduction of a boroughwide expanded licencing scheme in 2017, Lewisham confirmed a non-immediate Article 4 Direction in January 2020 covering 3 wards where the licensing data and census information indicated the greatest increases in shared households. Also, in January 2021, Croydon Council confirmed a borough-wide article 4 direction, their research having demonstrated that over the past 10 years Croydon had lost over 900 family homes to conversion and to large HMO properties.
- 4.19. Outside of planning powers, Environmental Health can investigate instances of poor quality accommodation and any noise and disturbance that can arise as a result of development; and parking enforcement can investigate issues relating to parking and can put in place measures to alleviate highways impacts in certain circumstances.
- 4.20. HMOs are also often associated with instances of anti-social behaviour, disturbance and noise. However, this is not an inherent issue with HMOs. There is no evidence that HMOs in-principle cause specific issues anti-social behaviour, disturbance and noise.

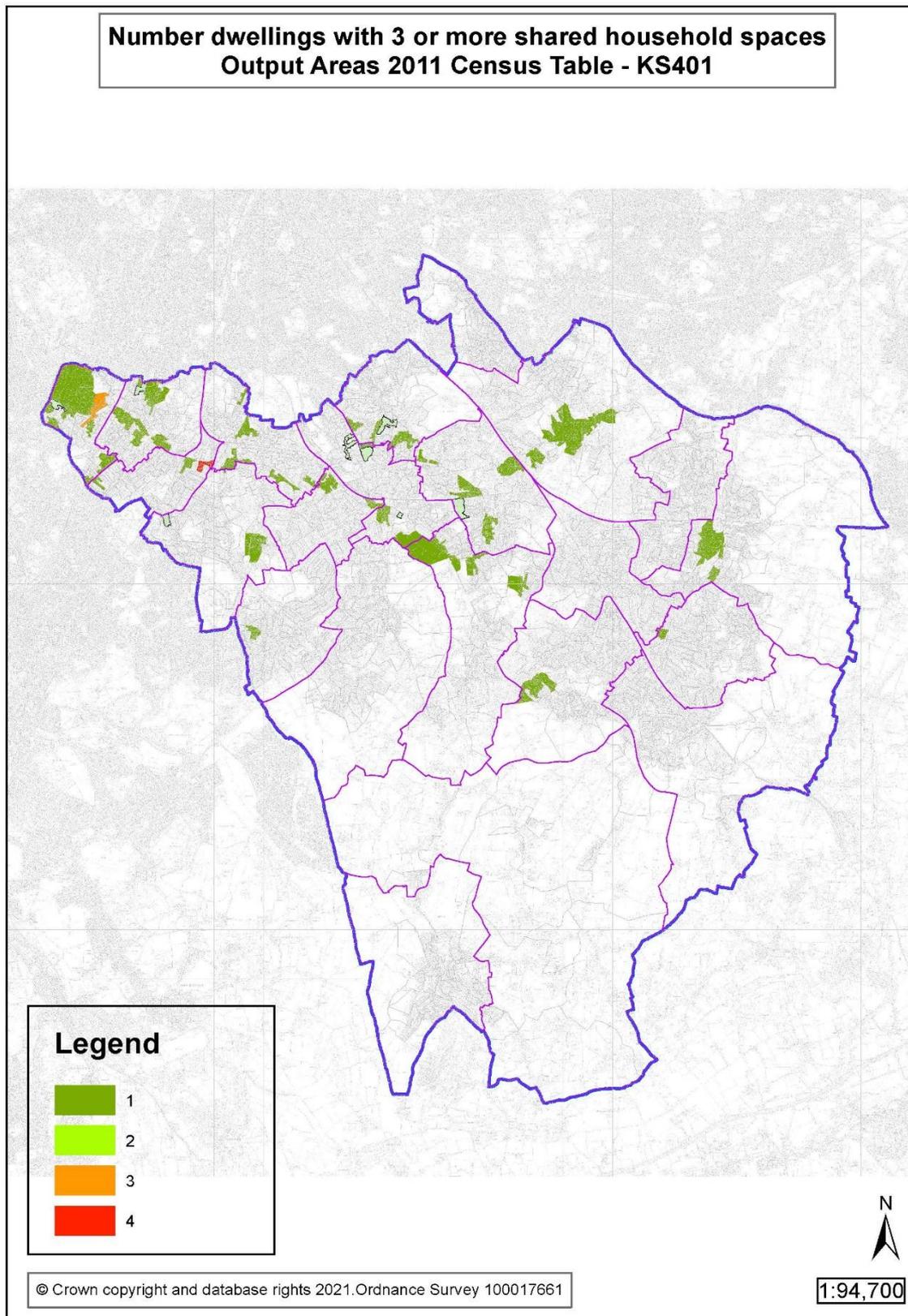
Appendix 1: map of licensed HMOs in Bromley (April 2021)



Appendix 2: map of Census 2011, number of dwellings within Lower Super Output Areas with 2 Shared Household Spaces



Appendix 3: map of Census 2011, number of dwellings within Lower Super Output Areas with 3 or more Shared Household Spaces



Appendix 4: Appeals relating to Change of Use to HMO since 2016

Case	Address	Details	Decision
16/00393 /S78; PINS ref: 3165214	49 Southborough Road Bickley, BR1 2EL	Change of use of existing single family dwellinghouse (C3) to 10- bedroom HMO (Sui Generis) (Retrospective)	Dismissed. Inspector considered on the basis of potential for up to 17 occupants which <ul style="list-style-type: none"> • represents a significantly different character and intensity than accommodation in the locality - mainly relatively low-density large dwellings; • fails to provide satisfactory living conditions for occupants (falling short of the Councils adopted HMO standards); and • increased levels of activity, noise and disturbance likely to result in harm to the living conditions of the occupiers of adjacent residential properties.
19/00100 /S78; PINS ref 3227513	43 Selby Road Penge, SE20 8ST	Conversion of the existing residential dwelling (C3) into HMO (Sui Generis) (Retrospective)	Dismissed. Inspector considered on the basis of potential for between 7 and 12 people noting only one communal space. Inspector considered: <ul style="list-style-type: none"> • development has an adverse effect on the living conditions of adjoining residents; and • limited communal space likely to lead to increased use of the garden which could also adversely affect neighbours living conditions (enjoyment of their gardens).
19/00277 /ENFMC U; PINS ref: 3242165	21 Langley Road Beckenham BR3 4AE	Appeal against enforcement re change of use of dwelling house (C3) used as an HMO (C4 - 6 person) to 6 person HMO and 2 self- contained one- bedroom flats	Dismissed. Enforcement notice upheld on the grounds of the poor living conditions for future occupiers. with the flats.
20/00219 /S78; PINS ref: 3263912	15 Cranworth Cottages Leaves Green Road Keston, BR2 6DB	Single storey rear extension and conversion to 5-bedroom (C4) HMO (Retrospective)	Appeal in Progress