



# Merton Council

## Feedback relating to Article 4 HMO Planning Controls

### Summary report of findings



**Opinion Research Services**  
**March 2023**



## Merton Council

### Feedback relating to Article 4 HMO Planning Controls

#### Summary report of findings by Opinion Research Services

#### Opinion Research Services

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# 1. Executive Summary

## The consultation

- 1.1 Merton London Borough Council (“the Council”) is consulting on proposals for a Selective Licensing scheme in four wards, and an Additional Licensing scheme in seven wards, that would apply to privately rented homes and smaller Houses of Multiple Occupation<sup>1</sup> (henceforth “HMOs”) as applicable.
- 1.2 The seven wards that the proposed additional licensing scheme would cover, have also seen the introduction of an Article 4 designation concerning HMOs, requiring planning permission to convert a property to a small HMO<sup>2</sup>. The Council wished to receive and consider views about this, before making a decision in April 2023 on whether the Article 4 Direction should be made permanent.
- 1.3 To inform its decisions, Merton Council commissioned Opinion Research Services (ORS), a spin-out company from Swansea University with a UK-wide reputation for social research and major statutory consultations, to undertake an extensive programme of consultation activities and independently report on the findings.
- 1.4 ORS will provide a comprehensive overall report of all consultation findings in late March 2023; this summary report covers the feedback relating specifically only to the Article 4 designation.
- 1.5 The formal consultation period of 10 weeks began on 14<sup>th</sup> November 2023 and ended on 22<sup>nd</sup> January 2023. During this period, residents and stakeholders were invited to provide feedback through the following:
  - A consultation questionnaire available for any interested party to complete, which attracted 478 responses;
  - Three events for landlords and representatives of letting and managing agents, for which around 73 individual stakeholder reserved places. In total, there were 65 participating across the three events, noting that some stakeholders did attend more than one event, and that one event was specifically to discuss the Article 4 direction.
  - One stakeholder event, to understand the views of key organisations, which was attended by representatives of three organisations;
  - In total, 18 written submissions were received via email and letter: 16 included feedback relating to Article 4 (which Merton council reviewed and summarised) and 4 included feedback related to the licensing proposals, summarised by ORS in the full report.

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<sup>1</sup> Note that large HMOs, i.e. those occupied by five or more persons from 2 or more separate households, are already required to obtain a licence. This is known as mandatory licensing and applies nationwide. Small HMOs are defined as those HMOs that have two, three or four bedrooms, occupied by three or four persons, from two or more separate households.

<sup>2</sup> Houses that are used by between 3 and 6 unrelated residents sharing basic amenities such as kitchen or bathrooms.

### Overall Summary: feedback relating to new Planning Controls (Article 4 Direction)

- 1.6 In relation to the new planning controls (Article 4 Direction), almost a third (32%) of landlords/letting agents responding to the questionnaire were in agreement with the proposal to require planning permission to convert a single home into a small HMO *in some parts of Merton*, but more than half (54%) disagreed. Tenants/residents/others however, were far more supportive with over four-fifths (81%) in agreement, and only 15% in disagreement. Agreement levels among tenants who *rent from a private landlord* were somewhat smaller: just over six-in-ten (63%).
- 1.7 Just over a fifth (22%) of landlords/letting agents responding to the questionnaire were in agreement with the Council's proposal to introduce this policy (Article 4 Direction) *in the seven particular wards*, but nearly two-thirds (63%) disagreed. Tenants/residents/others were far more supportive, with nearly four-fifths (79%) in agreement and only 17% in disagreement. Agreement levels among tenants who *rent from a private landlord* were somewhat lower, although still more than half (57%).
- 1.8 When asked for comments about the proposed policy, or the areas that it should cover, one-fifth of tenants/residents/others providing a comment in the questionnaire suggested that the whole of the borough/Merton should be included and over one-in-ten (14%) thought the planning permission should consider neighbours, e.g. noise insulation.
- 1.9 Feedback concerning Article 4 indicated that landlords greatest concern related to the *immediacy* of the introduction, suggesting that a notice period should be provided to allow landlords to consider whether or not to go ahead with planned HMO conversions, and to avoid negatively affected landlords from making compensation claims against the Council. Many participants were broadly supportive of the introduction and aims of the Article 4; but felt that the introduction of an immediate directive was unfair, and that its introduction was insufficiently publicised at the time.
- 1.10 There was some concern that the guidance for HMO conversion under the Article 4 is not clear enough, creating risk and therefore stress for those wanting to convert their properties, along with the fear that planning permission would not be granted even if the stipulations of the guidance were exceeded. Related to this sentiment was the notion expressed that "It's just more loopholes to jump through" and that the process is 'already a headache'.
- 1.11 The length of time required to get planning permission was a further concern, particularly in the case of those needing to utilise bridging finance. It was expressed that there were insufficient resources in the council to deal with the resultant increase in applications in a timely fashion.
- 1.12 Several participants expressed the view that the Article 4 would lead to a reduction in new units of the only form of housing many residents can afford becoming available (evidence was cited that current demand for HMOs significantly outstrips supply), and that this would be to Merton's detriment. Furthermore, there was concern that this will lead to the rents of existing HMOs increasing as supply reduces and planning costs are added to mortgages.
- 1.13 Some participants felt that the introduction of the directive was indicative of a generalised "anti-HMO" sentiment amongst members, and that that high quality HMOs were being assumed to be of detriment to the area by default simply by virtue of being a HMO, whilst conceding that there are issues with low quality HMOs.
- 1.14 The NRLA suggested that the Immediate Article 4 direction would lead to stagnation within the HMO sector in Merton, increasing rents and decreasing the availability of affordable housing. Public Health Merton, on

the other hand, argued that the Article 4 direction would likely be effective in preventing illegal development or overdevelopment of rented properties whilst only having minimal impact on housing affordability.

- <sup>1.15</sup> Should it wish to proceed with the proposals, it will be up to Merton Council, to decide what (if any) possible mitigations it might introduce to address the various concerns that were raised.

## 2. Consultation Overview

### The commission

- 2.1 Merton London Borough Council (“the Council”) is consulting on proposals for a Selective Licensing scheme in four wards, and an Additional Licensing scheme in seven wards, that would apply to privately rented homes and smaller Houses of Multiple Occupation<sup>3</sup> (henceforth “HMOs”) as applicable, and last for five years before being re-assessed. The objective of the schemes is to address problems associated with privately rented properties and HMOs in these wards, specifically issues associated with property conditions and anti-social behaviour, by improving the quality and management of homes.
- 2.2 The seven wards that the proposed additional licensing scheme would cover have also seen the introduction of an Article 4 designation concerning HMOs. An Article 4 designation restricts the scope of permitted development rights either in relation to a particular area or site, or a particular type of development anywhere in the authority's area. In the case of Merton, the Article 4 designation requires that any conversion of a property to a small HMO<sup>4</sup> cannot be undertaken without planning permission (within the seven wards designated), whereas absent the Article 4 it would typically be within permitted development rights to undertake such a conversion, where there was no change in use class of the property.
- 2.3 The Council wished to receive and consider views about this, before making a decision in April 2023 on whether the Article 4 Direction should be made permanent.
- 2.4 To inform its decisions, Merton Council commissioned Opinion Research Services (ORS), a spin-out company from Swansea University with a UK-wide reputation for social research and major statutory consultations, to undertake an extensive programme of consultation activities and independently report on the findings.
- 2.5 ORS will provide a comprehensive overall report of all consultation findings late in March 2023; this summary report covers the feedback relating specifically to the Article 4 designation.

### The consultation

- 2.6 A consultation document outlining the issues under consideration was developed by ORS, in conjunction with Merton Council. This document, along with a number of other supporting documents and event details/registration, was available for the duration of the consultation on the council's consultation webpage: [www.merton.gov.uk/prsconsultation](http://www.merton.gov.uk/prsconsultation).
- 2.7 Merton Council advertised the consultation and events to stakeholders via a range of activities including press releases, an article in the council's November newsletter, emails to existing licence holders and other

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<sup>3</sup> Note that large HMOs, i.e. those occupied by five or more persons from 2 or more separate households, are already required to obtain a licence. This is known as mandatory licensing and applies nationwide. Smaller HMOs are defined as those HMOs that have two, three or four bedrooms, occupied by three or four persons, from two or more separate households.

<sup>4</sup> Houses that are used by between 3 and 6 unrelated residents sharing basic amenities such as kitchen or bathrooms.

interested parties, notifying neighbouring authorities, and asking relevant landlord organisations to raise awareness of the consultation amongst its members.

- 2.8 A 10-week public consultation ran from November 14<sup>th</sup> 2022 to the end of January 22<sup>nd</sup> 2023. During this period, tenants, and other residents were invited to provide feedback through the following:
- » A consultation questionnaire available for any interested part to complete, which attracted 478 responses;
  - » Two events for landlords and representatives of letting and managing agents were held. One was virtual (25 attendees), and one was held in person (18 attendees). The virtual event took place online using videoconferencing software (Zoom), and the live event took place in Merton Council Chambers. Both events took place in January 2023, and it may be noted that some stakeholders attended more than one event, and some also attended the Article 4 event (see below);
  - » Due to levels of interest in the Article 4 element, a further virtual forum was also held in January to discuss this element specifically, attended by 22 people.
  - » A further online event was held for stakeholders, attended by representatives of three organisations: National Residential Landlords Association, the Fire Service, and Public Health. This was also held in January;
  - » 18 written submissions: stakeholders were able to provide their views by writing or emailing ORS (selective and additional) or by direct representation to the Council (Article 4).
- 2.9 In addition to the channels above, a dedicated telephone helpline was provided by ORS to enable stakeholders who needed assistance completing the questionnaire to be given suitable support, and an email address was available to request versions of the questionnaire in alternative formats or languages.
- 2.10 Finally, ORS worked closely with Merton Council to ensure that any queries about or feedback for the consultation which were directed to the Council in the first instance were subsequently shared with ORS and responded to or included in analysis and reporting, as appropriate.
- 2.11 Details about the process by which participants were invited to engage in the tenants and residents' focus group and stakeholder interviews are outlined below and covered in more detail in the relevant chapters.

## Quantitative engagement

- 2.12 A detailed consultation document was produced that contained information about the issues and proposals under consideration; using this document as a foundation, ORS and Merton Council then designed a questionnaire which combined 'closed' multiple choice questions about different aspects of the proposals with opportunities for 'open text' responses in which participants could: provide additional information to explain the reasons for their responses; raise concerns; suggest changes or alternatives to the proposals; or otherwise comment on the proposals or the consultation process itself.
- 2.13 The consultation questionnaire, managed and hosted by ORS, was accessible via a link on the dedicated consultation page on the Council's website, or through paper versions that could be requested by contacting the Council. All participants were asked to complete the same questionnaire; several profiling questions were therefore included to differentiate between respondent types, for example: landlords, managing or letting agents, residents, local businesses, organisations etc.



- 2.14 While the main consultation questions were the same for all respondent types, they were all asked to provide additional information to enable more detailed analysis of the results. These questions varied by respondent type and included, for example, the number of rental properties owned or managed by respondents who identified themselves as landlords or agents, organisation name, postcode of residence, etc. It is important to note that these and all questions were voluntary, and the feedback provided via the consultation questionnaire has been included in this report, regardless of whether respondents chose to provide these details, so that no one's feedback is excluded.
- 2.15 It should be noted that 'open' questionnaires are not randomly sampled surveys of a given population and so they cannot normally be expected to be representative of the general balance of opinion. For example, the more motivated groups are often over-represented compared with others. However, open questionnaires are very important forms of engagement as they are inclusive (open to anyone who wishes to take part) and give people an opportunity to express their views.

## Qualitative engagement

- 2.16 ORS conducted a total of four forums with a variety of stakeholders. Taken together, these meetings are best understood as 'deliberative' meetings in which the Council's proposals were 'tested' against landlords' and other stakeholders' opinions in order to see the extent to which the proposals were acceptable or otherwise, and to explore the reasons for different views on each aspect of the proposals.
- 2.17 Each forum comprised a presentation about the proposals in sections. The delivery of each section was followed by opportunities for attendees to ask questions of Merton Council officers for clarifications and to give feedback. The presentation and feedback slots closely reflected the structure and content of the consultation document as far as possible, and covered:
- » An introduction defining discretionary licensing;
  - » The potential benefits and risks of the scheme;
  - » Evidence in support of each of the proposed licensing designations;
  - » The proposed fee levels; and the proposed licence conditions;
  - » A dedicated section concerning the Article 4 direction.
- 2.18 Due to the large amount of feedback received in these forums concerning the Article 4 Direction, a further event was scheduled purely to discuss that element of the proposals, in which the dedicated article 4 section was presented in isolation.

## Written submissions

- 2.19 During the formal consultation process, 18 organisations and individuals provided written submissions. Some of these were from organisations representing landlords and agents, or tenants and residents (including vulnerable groups or individuals). Others were received from stakeholder bodies and organisations, as well from an MP, organisations representing landlords, private property developers, and individual landlords.
- 2.20 The written representations received separately to the consultation questionnaire and relating to Article 4, have all been read and reported separately by the Council, and are not included in this summary report.

## This summary report

- <sup>2.21</sup> This summary report covers only the feedback on the Council's Article 4 directive. Verbatim quotations may be used, not because we agree or disagree with them - but for their vividness in capturing recurrent points of view. ORS does not endorse any opinions but seeks only to portray them accurately and clearly.
- <sup>2.22</sup> ORS is clear that its role is to analyse and explain the opinions and arguments of the many different interests participating in the consultation, but not to 'make a case' for any proposal or proposals. In this report, we seek to profile the opinions and arguments of those who have responded to the consultation, but not to make any recommendations as to how the reported results should be used. Whilst this report brings together a wide range of evidence for Merton Council to consider, decisions must be taken based on all the evidence available.

# 3. Consultation Questionnaire

## Introduction

- 3.1 A consultation document outlining the issues under consideration was developed by ORS in conjunction with Merton Council, along with a consultation questionnaire that any interested party could complete to share their feedback.
- 3.2 The questionnaire consisted of closed questions intended to elicit views on the various aspects of the proposals, while also allowing respondents to make any further comments. It also captured information about the type of response being submitted and (where relevant) respondents' demographic information. Respondents were encouraged to read the detailed accompanying information before providing their responses; however, shorter summaries of the issues under consideration were also provided at relevant points within the questionnaire.
- 3.3 The consultation information and open questionnaire were available online via a dedicated Council webpage between 14<sup>th</sup> November 2022 and 22<sup>nd</sup> January 2023 (ten weeks in total), and respondents could also request a paper copy by contacting the Council.
- 3.4 In total 478 responses were received, all of which were submitted via the online questionnaire.

## Respondent profile

- 3.5 The open consultation questionnaire could be completed by anybody with an interest in the proposals e.g., landlords and agents, local residents or those responding on behalf of organisations.
- 3.6 Respondents were asked to state what connection(s) they had to Merton. Many would have had more than one connection to the borough; however, for analysis purposes respondents have been classified into single categories e.g., any respondent identifying as a landlord or a letting or managing agent has been classified as such in the reporting of the questionnaire results, even if they happened to also live in Merton– and so on.
- 3.7 The data from the consultation questionnaire has not been combined to produce “overall” findings because the size of the stakeholder groups, and the numbers of their respective responses, are quite different – and, moreover, they have distinctive views; they cannot, therefore, simply be merged. The views of different types of stakeholders are reported separately, to show where there are distinctive points of view e.g., between landlords and general residents, etc.
- 3.8 The full breakdown of responses by stakeholder type is provided in Table 1. It can be seen that just over half of responses were from local residents, while two-fifths were a private landlord in Merton. The remainder were a mixture of businesses, organisations, letting or managing agents with properties in Merton and others (i.e., respondents with another connection to Merton such as working in the borough, and other interested parties with no real connection to the area, and so on).

**Table 1: Consultation questionnaire completions by type of respondent (Note: Percentages may not sum to 100% due to rounding)**

Stakeholder type	Count	% Valid responses
Letting or managing agent with properties in Merton	25	5%
Private landlord in Merton	190	40%
Represent an organisation based in/covering Merton	4	1%
Live in Merton	251	53%
Other respondents	8	2%
<b>Total responses</b>	<b>478</b>	<b>100%</b>

- 3.9 Landlords and agents were asked follow-up questions based on the number of properties they own or manage, while those responding on behalf of organisations were asked to provide further details about the group or capacity in which they were responding.

**Table 2: Questionnaire landlord and agent characteristics (for those who stated they were responding as landlords or agents)**

Characteristic	Count	% Valid responses
<b>BY NUMBER OF PROPERTIES OWNED/MANAGED</b>		
1	67	55%
2-5	45	37%
6+	9	7%
<b>Total valid responses</b>	<b>121</b>	<b>100%</b>
<i>Not known/asked</i>	357	-

- 3.10 All other individuals (primarily Merton residents, but also those who work in the borough, business representatives, and those with another connection etc.) were asked to provide some basic demographic information. A summary of this demographic information provided is included below (in Table 3):

**Table 3: Questionnaire respondent demographics, for those types of stakeholder who were asked to provide this information (i.e., all except those who stated they were responding as landlords or agents, or on behalf of an organisation)**

Characteristic	Count	% Valid responses
<b>BY AGE</b>		
Under 45	54	28%
45 to 64	75	39%
65 or over	61	32%
<b>Total valid responses</b>	<b>190</b>	<b>100%</b>
<i>Not known/asked</i>	288	-
<b>BY GENDER</b>		
Male	87	45%
Female	105	54%
Other	3	2%
<b>Total valid responses</b>	<b>195</b>	<b>100%</b>
<i>Not known/asked</i>	283	-
<b>BY ETHNIC GROUP</b>		
BAME	37	21%
White	143	79%
<b>Total valid responses</b>	<b>180</b>	<b>100%</b>
<i>Not known/asked</i>	298	-

## Tenure of respondents living in Merton

- 3.11 All respondents living in Merton were asked the tenure of their home as part of the connection(s) they had. The following table is a summary of tenure for all residing in Merton, including individuals but also landlords, business owners etc. where they also live in the area.

**Table 4: Tenure for all respondents living in Merton**

Characteristic	Count	% Valid responses
<b>BY TENURE</b>		
Own (outright or with a mortgage)	239	78%
Rent privately from a landlord	57	19%
Rent from the Council or a housing association	4	1%
Other type of occupier	8	3%
<b>Total valid responses</b>	<b>308</b>	<b>100%</b>
<i>Not known/asked</i>	170	-

- 3.12 As previously noted, different stakeholder groups often have quite different perspectives. Tenure of their *own* home is typically less relevant to landlords' responses (they are more likely to provide feedback in relation to the properties that they rent out to tenants). However, tenure *is* likely to be more relevant to individual residents' feedback; therefore, throughout this report, when presenting how views differ by tenure, we consider only the tenure of those identified as individual residents/tenants/other. The following table is a summary of tenure just for this group.
- 3.13 Note that the sample sizes for those *renting from the council/housing association* and who *occupy their properties in other ways* are very small; limited inferences should therefore be drawn from these categories, whereas differences observed between those who *own* and those who *rent* privately, are more reliable.

**Table 5: Tenure for respondents living in Merton (only respondents who live in Merton and are not landlords)**

Characteristic	Count	% Valid responses
<b>BY TENURE</b>		
Own (outright or with a mortgage)	189	75%
Rent privately from a landlord	53	21%
Rent from the Council or a housing association	4	2%
Other type of occupier	6	2%
<b>Total valid responses</b>	<b>252</b>	<b>100%</b>
<i>Not known/asked</i>	7	-

## Organisations in the consultation questionnaire

- 3.14 The following organisations identified themselves as part of a response to the questionnaire:

- Cranbourne Limited (Landlord)
- Homeless Organisation
- SAM Planning
- Shelter London Hub
- Wimbledon East Hillside Residents' Association (WEHRA)

- 3.15 Not all of the above have been classified as organisations for the purposes of the charts which follow, generally because the respondents indicated they were also responding in some other capacity (e.g., as a

landlord or business); however, where any distinctive or unusual points were raised in these respondents' text comments, they have been summarised in the body of this chapter.

- 3.16 It should be noted that open questionnaires are, by their nature, self-reported, and this can create some ambiguity: for example, there were some instances where respondents identified as representing organisations but did not provide further information, or were unclear as to whether they were genuinely submitting a response *on behalf of* the entire group they had named. In the absence of any clear information to the contrary, ORS has opted to treat the ways in which these respondents classified themselves in good faith, so their feedback has been included alongside that of named organisations.

### Interpretation of the data

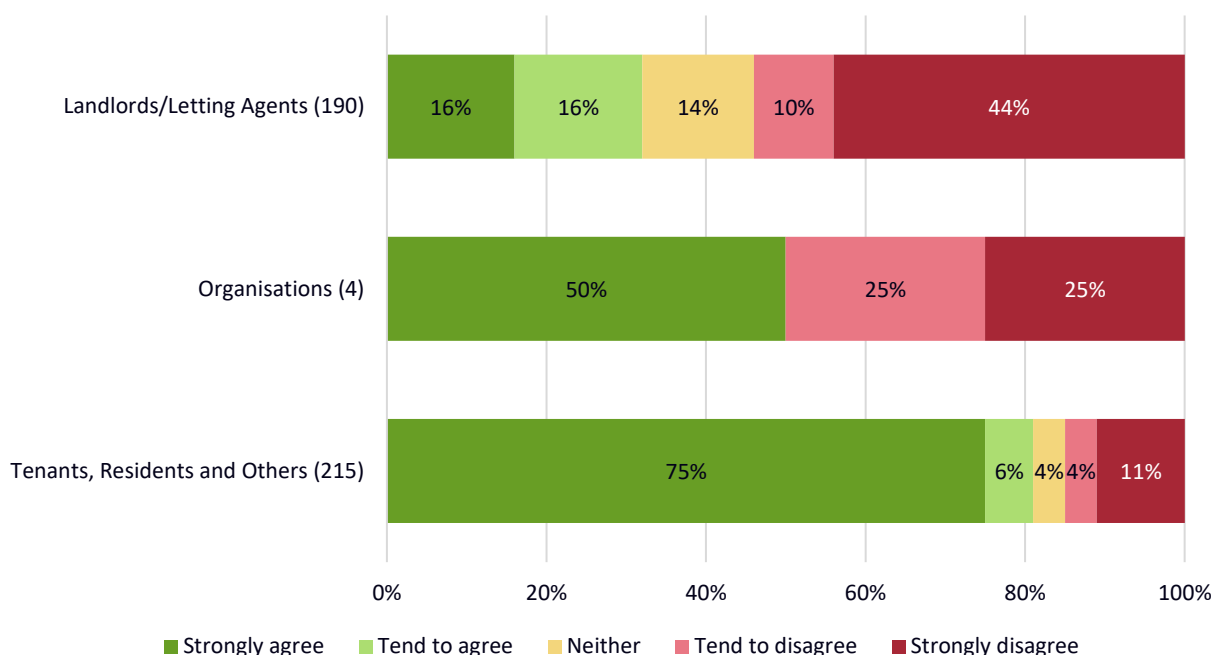
- 3.17 The data from the consultation questionnaire has not been combined to produce "overall" findings because the size of the stakeholder groups, and the numbers of their respective responses, are very different – and, moreover, they have distinctive views and cannot simply be merged. Therefore, we show the results for each stakeholder group, without an overall percentage
- 3.18 Results are presented in a largely graphical format, while colours used on the charts have been standardised with a 'traffic light' system in which:
- Green shades represent responses that 'tend to agree' or 'strongly agree'
  - Beige shades represent those who 'neither agree nor disagree'
  - Red shades represent responses that 'tend to disagree' or 'strongly disagree'
- 3.19 A few other colours, such as purples, blues and oranges, have been used on charts where the 'traffic light' system is less applicable (e.g., the coded responses to the open-ended text questions).
- 3.20 The labels on the stacked bar charts are percentages indicating the proportions of respondents that agree/disagree on a particular question. These are rounded for convenience of presentation, and when grouped results are being discussed in commentary, the accurate numerical result is used, which may not always match the apparent sum of the individual rounded labels.
- 3.21 The number of valid responses recorded for each question (base size) are reported throughout. As not all respondents answered every question the valid responses vary between question ('don't know' responses have been treated as invalid). Where percentages do not sum to 100, this may be due to computer rounding, the exclusion of "don't know" categories, or multiple answers. An asterisk (\*) denotes any value less than half of one per cent.
- 3.22 Please note that for some categories, percentages ought to be interpreted with some caution due to low base sizes (e.g., particularly responses from organisations, those renting from the council or housing association and other types of occupier).
- 3.23 The commentary generally quotes 'grouped' percentages (i.e., the collective proportions who agreed – whether 'strongly' or 'tend to', and the same for disagreement).

## Article 4 findings

### New Planning Controls (Article 4 Direction)

*To what extent do you agree or disagree with the proposal to introduce a policy requiring planning permission to convert a single home into a small HMO (Article 4 Direction), in some parts of Merton?*

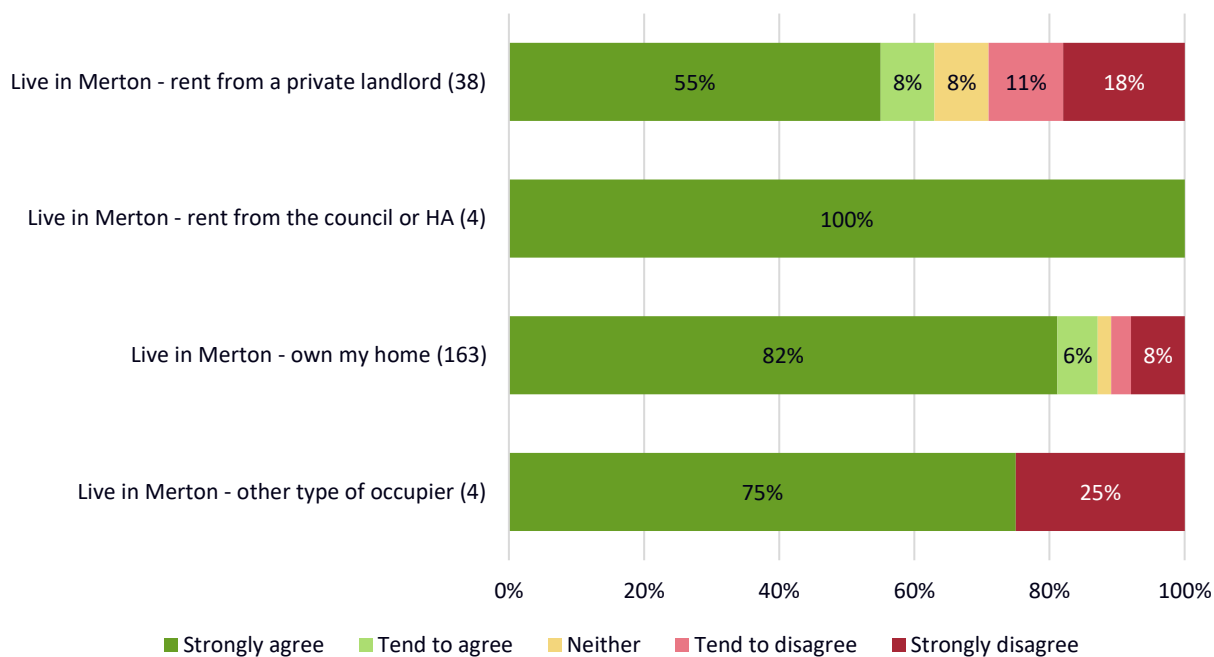
**Figure 1: Agreement with the proposal to introduce a policy requiring planning permission to convert a single home into a small HMO (Article 4 Direction), in some parts of Merton**



**Base: Numbers in brackets show the number of respondents giving a valid answer within each sub-group**

- 3.24 Almost a third (32%) of landlords/letting agents were in agreement with the proposal to introduce a policy requiring planning permission to convert a single home into a small HMO (Article 4 Direction) in some parts of Merton, but more than half (54%) disagreed. There was an even split in agreement and disagreement between organisations. Tenants/residents/others however, were far more supportive with over four-fifths (81%) in agreement, and only 15% in disagreement.
- 3.25 It is worth noting that the results for organisations are only based on 4 cases.
- 3.26 The following chart looks at the responses for tenants/residents/others residing in Merton broken down by tenure.

**Figure 2: Agreement with the proposal to introduce a policy requiring planning permission to convert a single home into a small HMO (Article 4 Direction), in some parts of Merton (only respondents who live in Merton and are not landlords)**



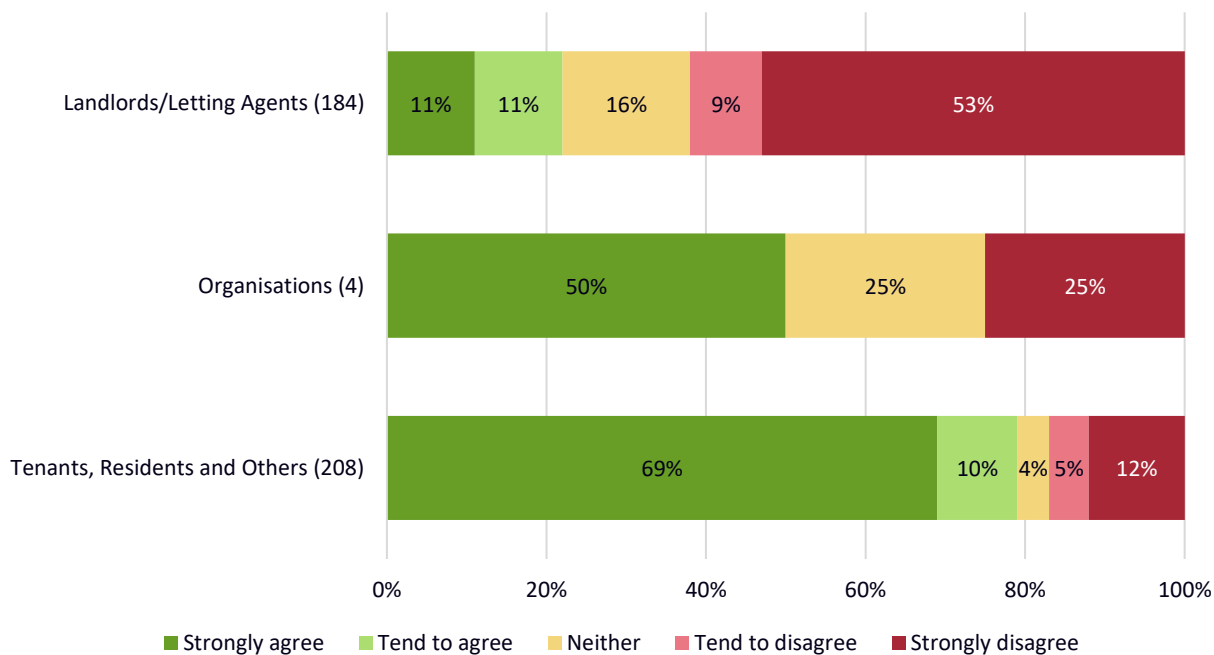
**Base: Numbers in brackets show the number of respondents giving a valid answer within each sub-group**

- 3.27 Nearly nine-in-ten (87%) of residents/tenants/others who live in Merton and own their home agreed with the proposal to introduce a policy requiring planning permission to convert a single home into a small HMO (Article 4 Direction), in some parts of Merton. In contrast, the proportion renting from a private landlord who agreed was somewhat smaller: just over six-in-ten (63%).
- 3.28 It is worth noting that the results for residents/tenants/others who live in Merton and rent their home from the council or housing association or live in Merton as another type of occupier are both only based on 4 cases.



*To what extent do you agree or disagree with the Council’s proposal to introduce this policy (Article 4 Direction) covering these seven wards?  
(Graveney, Longthornton, Pollards Hill, Figge’s Marsh, Cricket Green, Lavender Fields and Colliers Wood)*

**Figure 3: Agreement with the Council’s proposal to introduce this policy (Article 4 Direction) covering seven particular wards**



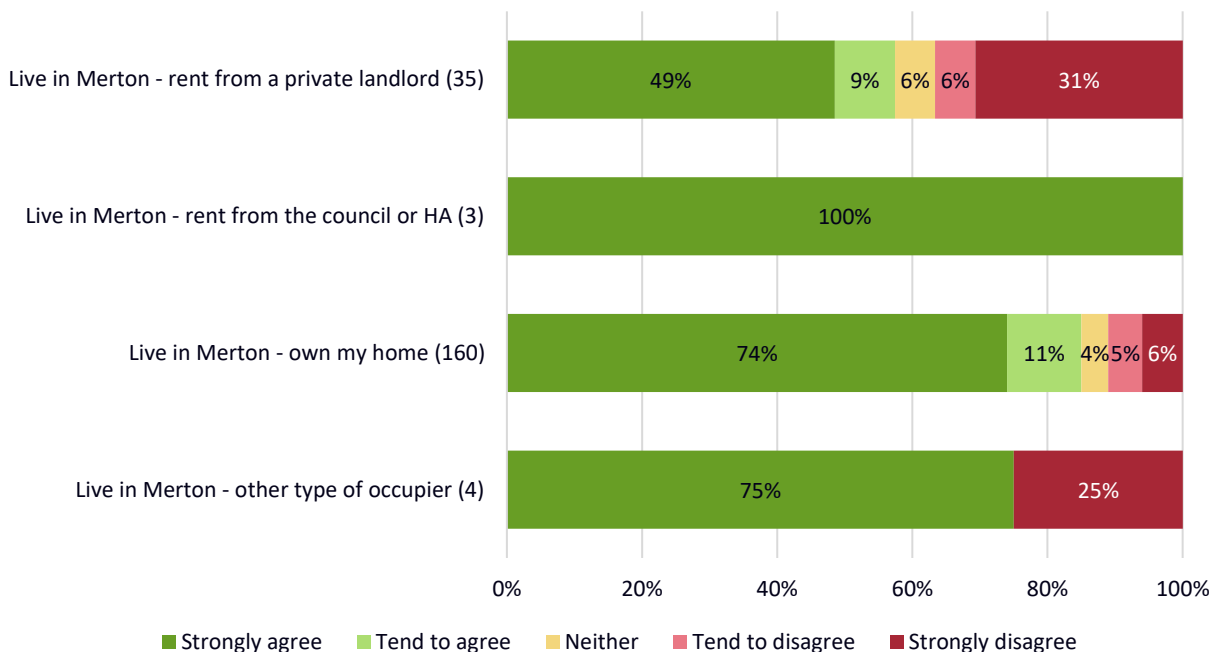
**Base:** Numbers in brackets show the number of respondents giving a valid answer within each sub-group

3.29 Just over a fifth (22%) of landlords/letting agents were in agreement with the Council’s proposal to introduce this policy (Article 4 Direction) covering seven particular wards, but nearly two-thirds (63%) disagreed. Tenants/residents/others were far more supportive, with nearly four-fifths (79%) in agreement and only 17% in disagreement.

3.30 It is worth noting that the results for organisations are only based on 4 cases.

3.31 The following chart looks at the responses for tenants/residents/others residing in Merton broken down by tenure.

**Figure 4: Agreement with the Council’s proposal to introduce this policy (Article 4 Direction) covering seven particular wards (only respondents who live in Merton and are not landlords)**



**Base: Numbers in brackets show the number of respondents giving a valid answer within each sub-group**

3.32 Over eight-in-ten (85%) of tenants/residents/others who live in Merton and own their home agreed with the proposal to introduce a policy requiring planning permission to convert a single home into a small HMO (Article 4 Direction), covering seven particular wards in Merton. In contrast, the proportion renting from a private landlord who agreed was somewhat smaller, although still more than half (57%).

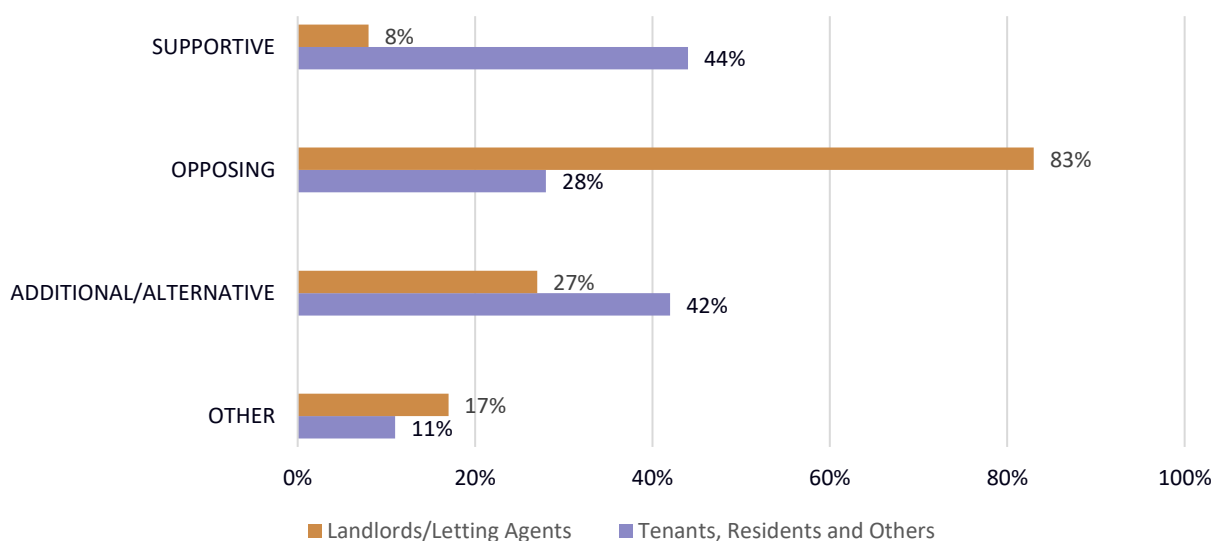
3.33 It is worth noting that the results for tenants/residents/others who live in Merton and rent their home from the council or housing association or live in Merton as another type of occupier are only based on 3 and 4 cases respectively.

## Comments about New Planning Controls (Article 4 Direction)

*If you have any comments about the proposed policy to require planning permission to convert a single property into an HMO (Article 4 Direction) in some parts of Merton, or the areas that it should cover, please explain in the space below.*

- 3.34 The following chart provides a high-level summary of the categories of response given to this question. Percentages may add up to more than 100% because respondents could provide a response falling into more than one category, i.e. they could have a response that mentions something broadly in support of the proposal but also something opposing it.

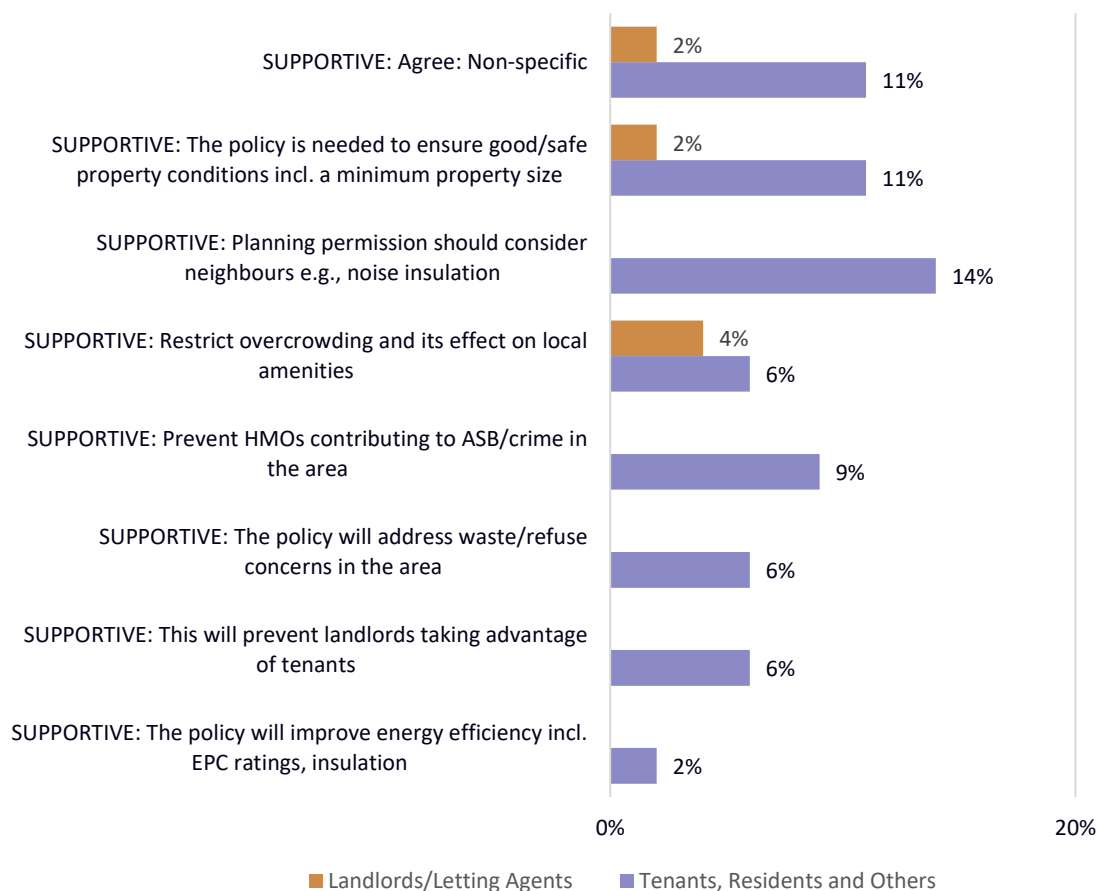
**Figure 5: Comments about New Planning Controls - High level summary**



**Base: Landlords/Letting agents (52 respondents, 70 high-level categories), Tenants, Residents etc (64 respondents, 80 high-level categories)**

- 3.35 More than four-in-five landlords/letting agents (83%) providing a comment said something in their response which opposed the proposed policy to require planning permission to convert a single property into an HMO (Article 4 Direction) in some parts of Merton, with only 8% saying something in support. Tenants/residents/others were more likely to say something in support of the proposed policy with over two-fifths (44%) doing so.
- 3.36 Tenants/residents/others were more likely to mention an additional/alternative proposal with over two-fifths (42%) who provided a comment mentioning one in their response. This compares to just over a quarter (27%) of landlords/letting agents mentioning an additional/alternative proposal.
- 3.37 There were only 3 responses from organisations to this question, with an even split of supportive/opposing comments and additional/alternative proposals provided.
- 3.38 The next charts look at the specific things said within these categories in more detail. All percentages in these charts are taken as a proportion from the total giving a comment but have been split over more than one chart for display purposes. Respondents may have said more than one of the things noted in each chart.

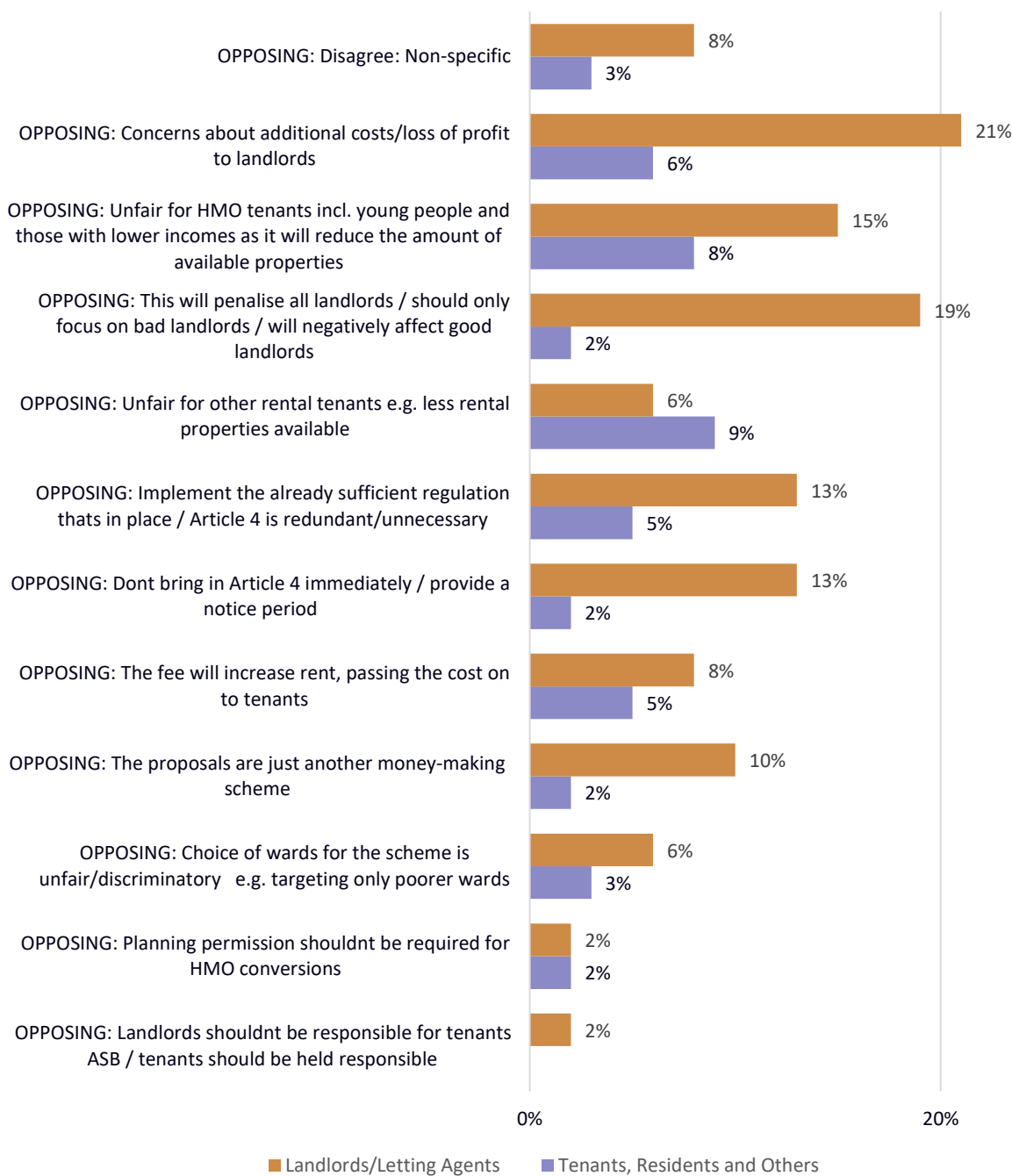
**Figure 6: Comments about New Planning Controls – The supportive responses**



**Base: Landlords/Letting agents (52 respondents), Tenants, Residents and others (64 respondents)**

- 3.39 Over one-in-ten (14%) of tenants/residents/others providing a comment thought the planning permission should consider neighbours, e.g. noise insulation, with a slightly smaller proportion (11%) saying the policy is needed to ensure good/safe property conditions incl. a minimum property size.
- 3.40 Just under one-in-twenty (4%) of landlords/letting agents giving a response said it would restrict overcrowding and its effect on local amenities.

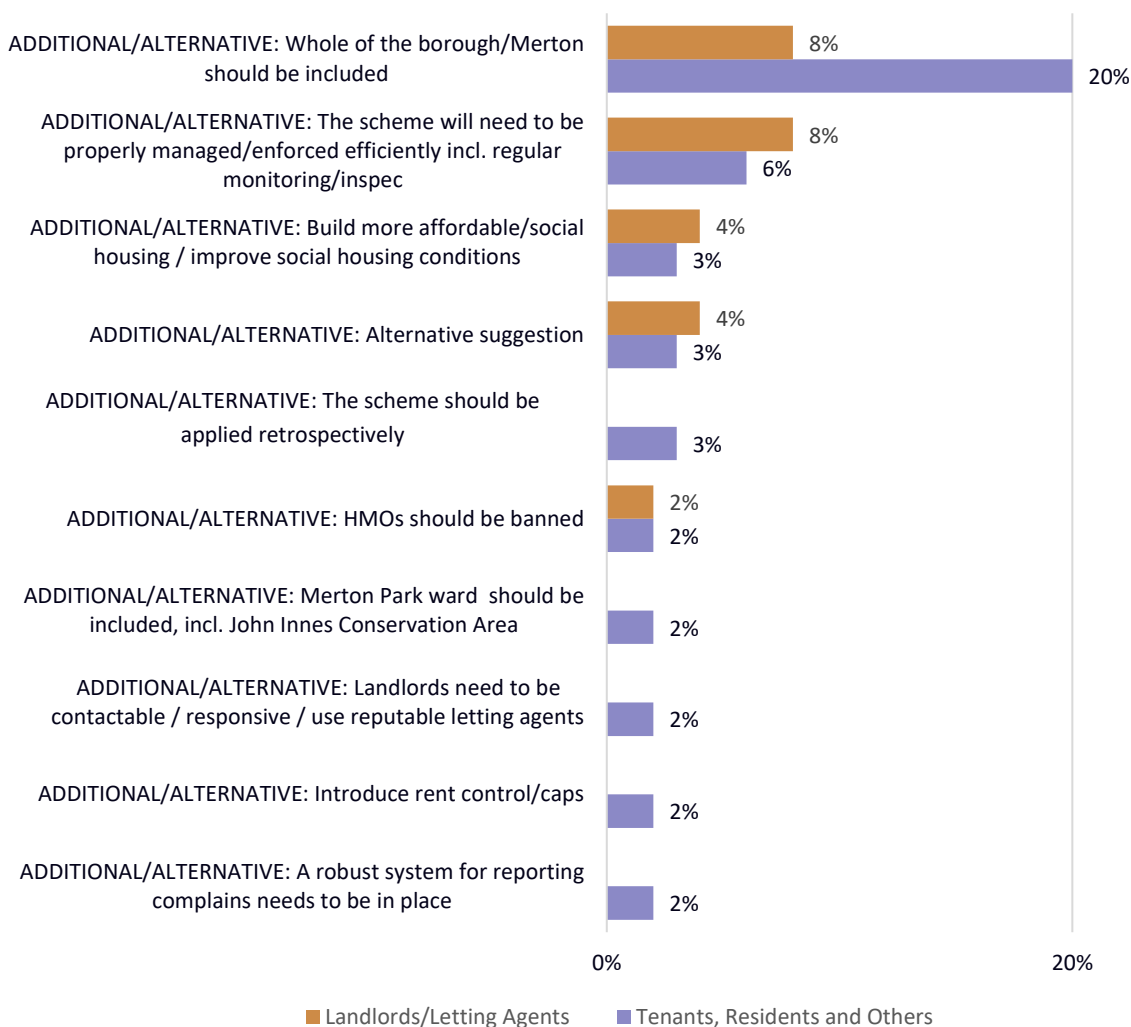
**Figure 7: Comments about New Planning Controls – The opposing responses**



**Base: Landlords/Letting agents (52 respondents), Tenants, Residents and others (64 respondents)**

- 3.41 Over one-fifth (21%) of landlords/letting agents giving a response had concerns about additional costs/loss of profit to landlords, with a slightly smaller proportion (19%) saying it will penalise all landlords/should only focus on bad landlords/will negatively affect good landlords.
- 3.42 Just under a tenth of tenants/residents/others providing a comment thought it would be unfair for HMO tenants incl. young people and those with lower incomes, and also other rental tenants, as it will reduce the amount of available properties often sought out by these groups.

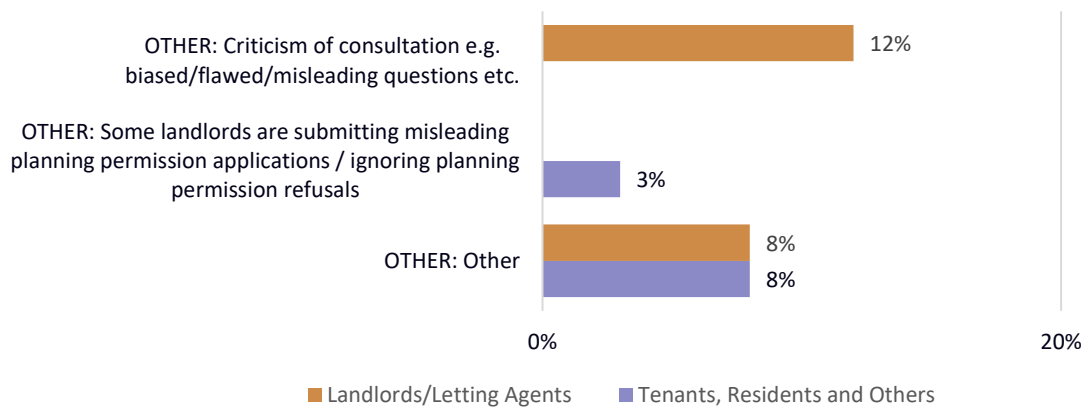
**Figure 8: Comments about New Planning Controls – The additional/alternative responses**



**Base: Landlords/Letting agents (52 respondents), Tenants, Residents and others (64 respondents)**

- 3.43 One-fifth of tenants/residents/others giving a response suggested that the whole of the borough/Merton should be included and 6% highlighted that the scheme will need to be properly managed/enforced efficiently.
- 3.44 Just under a tenth (8%) of landlords/letting agents providing a comment mentioned that the scheme will need to be properly managed/enforced efficiently with the same proportion suggesting that the whole of the borough/Merton should be included.

Figure 9: Comments about New Planning Controls – Other responses



Base: Landlords/Letting agents (52 respondents), Tenants, Residents and others (64 respondents)

3.45 The figure above summarises the other type of comments provided not falling into any of the previous categories of response.

3.46 Whilst the above themes cover the majority of points made by respondents in relation to this question, a few comments raised more specific points, the most important of which are included below for consideration:

- » *“...I understand that the Article 4 Direction relates only to the change from Class C3 (dwelling house) to Class C4 (small HMO), and not to changes from C4 to C3. If the latter was also contemplated, that would affect the flexibility with which landlords could use their premises and encourage them to leave the sector.”*
- » *“The rules outlined would treat the rental of a property to parents who are not married with a child from a previous relationship as a HMO (with only 3 people living in the house). Are un-married couples considered 1 or 2 households? When plans are submitted it may not be known who will be renting the property and the dynamics of the family.”*
- » *“...We think what the council should do is to introduce selective/additional licensing schemes to improve HMO standards then it's a win-win situation for the tenants and council. I am in favour of private landlord registration so that the tenants can check the properties meet all the standard on the website. the key thing is help landlord increase rental property supplies and improve the standards. HMO article 4 works exactly the opposite.”*

### Organisation Comments

- » *“The Article 4 will significantly reduce the number of HMO which provide good supply to the housing crisis. Article 4 on HMO has no impact on ASB and rogue landlords. The additional licensing and selective licensing is sufficient to solve the ASB and rogue landlord. The immediate effect of the Article 4 make uncertainty to HMO developer who product high quality HMO. This damages our business and great losses...”*
- » *“HMOs can be places of very poor conditions and some of our cases in Merton have included HMOs that are not fit for human condition and the poor standards and design of dwellings have contributed to health conditions and homelessness applications. Improving or stopping bad HMOs as early as possible is critically important in stopping this.” (Shelter London Hub)*

- » Stop the Article 4 direction from the immediate effect to a property one year consultation, so the HMO developers would prepare in advance. It is also fair to have sufficient time from them so avoid business losses or this will create huge compensation claims. Each HMO project scheme is at least, 200K in purchase, and 200K in refurbishment. So, the compensation claim council facing could be millions of pounds of compensation claims.”



## 4. Deliberative forums

### Introduction

- 4.1 ORS conducted a total of four deliberative engagement events: three with landlords and letting agents, and one with key stakeholder organisations. These events were chaired by ORS, but were also attended by officers from Merton Council who were able to respond to a range of questions arising.

### Arguments rather than numbers

- 4.2 Taken together, all these engagement events are best understood as ‘deliberative’ meetings in which Merton Council’s consultation proposals were ‘tested’ against landlords’/managing agents’ and other stakeholders’ opinions - in order to see the extent to which they are acceptable or otherwise.
- 4.3 In deliberative meetings it is not appropriate to ‘count heads’ in an apparent numbers game – as the results cannot be certified as statistically significant because of the numerically small samples. However, such meetings are effective and important in revealing issues, arguments, considerations, implications, assumptions and experiences that deserve to be taken into account by those making decisions – and that was the case in the engagement activities reported here.

### Landlords and agents

- 4.4 Three events were organised for landlords and managing agents as below. The first two sessions were designed to cover Merton Council’s selective and additional licensing proposals and the Immediate Article 4 direction (whereby the Council has introduced a policy requiring planning permission to convert a single home into a small HMO in some parts of the borough), whereas the third was organised specifically to discuss the Immediate Article 4 direction in more detail.

Date	Time	Location	Actual attendance	Repeat attendees from previous events
10.01.23	2:30pm – 5:00 pm	Online (Zoom)	25	-
16.01.23	18:00pm – 20:30pm	Merton Council Chambers	18	9
18.01.23	10:00am – 12:00pm	Online (Zoom)	22	22

### Stakeholder Workshop

- 4.5 Another event was held for key organisation representatives to give their views on the proposals for selective and additional licensing, and Immediate Article 4 direction. This session, which took place online on 19<sup>th</sup> January 2023, followed the same format as those for landlords/letting agents, and was attended by representatives of London Fire Brigade, the National Residential Landlords Association (NRLA) and Public Health Merton.

## Key findings relating to Immediate Article 4 Direction

### Overview

- 4.6 Overall, landlords who attended the events and expressed views, were cautious of Merton Council's Immediate Article 4 Direction. They mostly question its immediacy and the impact that it could have on landlords/developers already in the process of converting properties into small HMOs. The potential to reduce antisocial behaviour and availability of HMOs and affordable housing was also questioned, amongst other issues, as explained below.

### Evidence relating to the Immediate Article 4 Direction

- 4.7 Some landlords claimed that the Metastreet data was "lonely", arguing that it should compare the saturation of HMOs across Merton with the rest of London, pointing out that if this is done, the density of HMOs in the borough is lower than elsewhere and the London average:

*"The Metastreet data about saturation of HMOs across the 7 wards... we consider that to be quite lonely data because it relates to the saturation of HMOs within those 7 wards but doesn't actually compare Merton to other boroughs and the saturation of HMOs that would be normal across London. When we've looked into that in more detail, what we've found is that the London average saturation of HMOs is 5.6% across each borough, whereas Merton as a whole, when you measure it borough-wide, is 2.7% saturation."*

- 4.8 Some questioned whether the evidence available demonstrated sufficiently urgent problems to justify the introduction direction immediately (i.e. without a notice period).

### Ability to reduce issues

- 4.9 Many landlords questioned the link between well-managed HMOs and antisocial behaviour, feeling that ASB was more of a licensing issue (i.e. a problem related to management rather than planning). This led many to doubt whether the Article 4 Direction would have a meaningful impact on antisocial behaviour in the affected wards.

*"Most people living in HMOs are probably a bit younger and single, so they will probably produce a little bit more noise... they will be louder than the next-door couple in their 50s... but it does not mean that those people cannot live in that neighbourhood..."*

### Potential impact on availability of HMOs and affordable housing

- 4.10 Numerous landlords expressed concern that the Article 4 Direction would lead to a restriction in the number of HMOs becoming available in the affected wards, or even a decrease in the number of HMOs in total.
- 4.11 It was argued that a shortage of more affordable housing options in the area could be caused as a result, increasing housing costs in a sector that would have a potentially serious impact on those on low incomes, at risk of homelessness, or otherwise most vulnerable.

- 4.12 It was also suggested that the Article 4 Direction could create a lack of student housing; if it results in a reduction in the number of HMOs coming forward.
- 4.13 The NRLA agreed that an Article 4 Direction would stagnate the HMO market in the affected wards and raise housing costs as a result:

*“there’s plenty of evidence in other boroughs up and down the country with Article 4 Directions: it crystalises what’s in place, stops new entries in the market, it drives rent up, and that’s the outcome.” – NRLA*

- 4.14 On the other hand, Public Health agreed that the Article 4 Direction would likely be effective in preventing illegal development / overdevelopment of rented properties whilst having a minimal impact on housing availability.

#### Immediacy of the Article 4 Direction and potential for planning decisions to be delayed or denied

- 4.15 Some landlords suggested that they were not wholly opposed to the Article 4 Direction, they were primarily concerned over the immediacy of its introduction.
- 4.16 As a result of the Article 4 Direction being introduced immediately, it was felt that landlords already converting their properties to small HMOs would be at risk of being denied planning permissions. Notably, this was of concern to both landlords of individual properties and those with larger portfolios.
- 4.17 Some landlords were concerned that their applications may be denied regardless of whether their properties meet the criteria, in an effort to restrict the number new of HMOs in Merton overall.
- 4.18 Feeling that Councils are in a position that means they only deal with the worst issues and have little to know involvement in all of the benefits provided by HMOs. Therefore, there was concern over the Council’s position towards HMOs in general.
- 4.19 Even if planning was eventually granted on some converted properties, the delays in application and approval as a result of the Article 4 direction introduces significant cashflow issues and risk to developers. This means that they would be unlikely to invest in improving properties in the area in future, potentially across the whole of Merton, not only the seven wards.
- 4.20 Some landlords also questioned whether the Immediate Article 4 had been communicated well enough to the public.

*“looking at October’s committee cabinet report in particular there was mention of an Article 4 being brought in, but it was going to be post-consultation and subject to the outcome of that, and the earliest it would be brought in is September 2023. That obviously hasn’t happened. Post hearing about the immediate Article 4 direction on 17th November the following week, I went back onto Merton Council’s website and... up until the 5th or 6th of November there was absolutely no mention whatsoever on the website that this had been brought in.”*

- 4.21 Some landlords who should have received a notification based on the council’s stated plan of publicity (existing HMO landlords currently with licenses) stated they did not receive anything.

- 4.22 Due to the immediacy of the Article 4 Direction and its potential to deny planning permission to landlords that were in the process of converting their properties before it was introduced, numerous landlords suggested that they and others will be forced to seek financial compensation, should their planning applications be denied.
- 4.23 It was suggested that the Article 4 Direction should instead have a prior notice of up to 12 months to ensure that landlords can make better-informed decisions on whether or not to go ahead with planned conversions, thus reducing the financial risk of having planning permission denied.

*“I’m not surprised you’re bringing in HMO [planning applications] because Croydon had similar issues... [but] I was surprised that it was immediate. The other boroughs in my experience did 1 year’s notice... I think a lot of landlords are in the middle of refurbishment and so this is significant.”*

- 4.24 It was also felt that planning guidance should be in place before an Article 4 Direction is introduced so that landlords can maximise their ability to meet the planning criteria and reduce the financial risks associated with having their planning denied

*“My concern is people like us are needing help with planning... especially when it’s not cut and dry...”*