

Our Ref: K1344 Representation to Planning Committee

Representation to Planning Committee

28th April 2026

Application for a Change of Use from C3 to C4 (6 person HMO) MC/26/0116

Site address: 7 Camden Road, Gillingham, ME7 1QS.

Dear Councillors,

We are writing on behalf of the applicant for MC/26/0116 to provide a formal rebuttal to the Case Officer's indicated recommendation for refusal. As the deadline for written representations is noon today, we submit the following material considerations for the Committee's review.

Extant Lawful Status & Transitional Fairness

A Lawful Development Certificate (MC/25/1952) was granted in November 2025, confirming the change of use and layout were lawful at the time. Works were 80% completed prior to the introduction of the Article 4 Direction.

The applicant has acted with complete transparency; a refusal now would be retrospectively punitive and ignore the "fall-back" position established by the LDC application for a proposed use.

Misapplication of Policy T8 & Cabinet Directives

The officer cites a lack of communal space under Policy T8. However, Medway Council's Cabinet Report (16 December 2025, Section 3.1) explicitly states that these enhanced requirements do not apply to 6-person C4 HMOs. The 13sqm kitchen-diner provided comfortably satisfies the 'equivalent space' requirement under T8, and no minimum size standard for communal space exists anywhere in T8 or the National Described Space Standards.

Combined with high-specification private ensuite bedrooms averaging 13.9sqm each, the residential amenity significantly exceeds standard HMO provisions elsewhere in the borough.

Sustainability

The site is objectively sustainable. Gillingham station, served by Southeastern and Thameslink, is a 16-minute walk from the property. Bus routes 1, 101, 176 and 177 serve stops on Milner Road (2 minutes walk) and The Strand (4 minutes walk), providing frequent connections to Gillingham town centre, Chatham, Maidstone and beyond.

Essential retail and services within easy walking distance:

- Tesco Express, Pier Road — approximately 3 minutes walk
- Lidl, Medway Road — approximately 3 minutes walk
- ASDA Gillingham Pier Superstore — approximately 6 minutes walk
- Sunlight Pharmacy, Richmond Road — approximately 5 minutes walk

Notably, there are zero neighbour objections and as identified in the officer's report there is not an over-concentration of HMOs within 100 metres of the property.

Conclusion

To refuse this application would ignore the Cabinet's policy directive, disregard the LDC, and apply a policy framework that Medway Council's own Chief Planning Officer has confirmed does not apply to this category of application. The officer has been made aware of all the above points through formal written correspondence and has declined to engage with the substance of any of them – see letter dated 10th March (Appendix A).

We respectfully request that the Committee exercise its independent judgement in determining this application, having regard to the material considerations set out above rather than relying solely on the officer's recommendation. Our client seeks a consistent and lawful application of policy.

Yours faithfully,

Liam Nicholson

Our Ref: K1344 Response to LPA's Comments

Response to LPA's Comments

10th March 2026

Application for a Change of Use from C3 to C4 (6 person HMO) MC/26/0116

Site address: 7 Camden Road, Gillingham, ME7 1QS.

Dear Arron Nicholls,

Thanks for your correspondence received by email 10 March 2026 in regard to the proposal for a change of use to a HMO at 7 Camden Road.

In your email you appear to have mis-described the proposal as a 6 person HMO (Sui Generis). Under the Town and Country Planning (Use Classes) Order 1987 (as amended), any HMO with 3 to 6 unrelated occupiers falls within use class C4.

A property only becomes Sui Generis when it exceeds 6 residents. Therefore, can you confirm that this proposal should also be correctly described as use class C4 not Sui Generis. As such the proposal can be considered a dwellinghouse as per case law, specifically the "Gravesham test". Recent legal rulings have clarified that both small (C4) and large (Sui Generis) HMOs can be considered dwellinghouses.

Policy BNE2 seeks to protect the amenity of the area and of individual properties from harm caused by new development. It requires proposals to ensure privacy, daylight, outlook, and noise levels remain acceptable for both existing and prospective occupants.

In this regard the HMO operates within the same intensity as a C3 dwellinghouse. Therefore, we dispute your assertion that the proposal would, *"intensify the occupancy of the property with regard to noise and disturbance, detrimental to the amenity of the occupiers of nearby family homes."* The noise levels generated by this proposal are considered de minimis (negligible) for a residential area, therefore it does not result in a material change.

Policy H7 states that dwellings intended for multiple occupation will be permitted subject to the following criteria:

(i) the property is in an area with a predominantly mixed-use or commercial character; and

(ii) the property is located where increased traffic and activity would not be detrimental to local amenity; and

(iii) either the property is detached, and the proposal would not adversely affect the amenity of the occupiers of nearby properties; or

(iv) where the property is not detached, relevant nearby or adjoining properties are in multiple occupation or a non-residential use; and

(v) for changes of use, the property is too large to reasonably expect its occupation by a single household.

This policy was written before the modern HMO use classes (C4) existed. Therefore, the planning authority should make allowances for distinguishing between small and large HMOs. Our belief is that **criterion (v)** strongly suggests the policy was intended for large houses being subdivided, not smaller houses converted to small HMOs.

Policy T8 of the Regulation 19 Local Plan seeks to avoid detrimental clusters of HMOs and to ensure that they provide a suitable quality of accommodation. Our assessment is that the proposed small HMO:

- Would not adversely affect the character and amenity of the area.
- Would not contribute to an over concentration of HMOs on the road.
- Would not contribute to the generation of excessive parking demands or traffic given the town centre location and distance to means of public transport.
- Would provide for a suitable level of amenity for future occupiers with rooms complying with the National Described Space Standards.
- Would not adversely affect the health and well-being of the residents (new and existing).

Policy T8 contains no room size or communal space standards whatsoever. Therefore, the planning authorities' grounds for refusal have no policy basis. The policies only amenity limb is a broad unquantified test i.e. "do not adversely affect the health and well-being of residents."

There is no minimum kitchen size and no minimum living/dining area. Therefore, it could be argued that the planning authority has invented a requirement the policy does not contain.

The only statutory room size standards are for bedrooms. The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 (SI 2018/616) set a minimum of 6.51 sqm per bedroom for one person.

Every bedroom in this proposal exceeds the statutory minimum. There is no equivalent statutory standard for communal space.

The sizes of the bedrooms and kitchen dining spaces are proportionate to the number of occupants and align with national space standards, as demonstrated via the recent application for a Lawful Development Certificate for a proposed use ref: MC/25/1952.

Our opinion is that the grounds for a refusal cannot be sustained and there is no adopted policy, no national standard, and no basis in the cited policies themselves for refusing on communal space grounds.

Policies H7 and T8 are the wrong policies entirely for this application. Medway Council's own formally issued evidence base (DHA/37065, issued 21 November 2025, presented to Cabinet 16 December 2025) states explicitly that H7 and T8 *"only relate to large scale HMOs comprising of more than 6 unrelated residents."* This proposal is for a 6-person C4 HMO. The wrong policy framework has been applied in the assessment of this application. See point 3.1 of the report prepared for Cabinet meeting attached in Appendix A.

You state that, *"By virtue of only being served by two low-level rooflights and by virtue of the sloping roof and the arrangement of the room future occupiers of bedroom 6 would be provide with a poor level of occupier amenity."* However, you have failed to acknowledge that bedroom 6 is served by an additional window in the dormer on the rear slope. Except for the en-suite this is an open plan space. This is a common arrangement for any loft conversion. We do not believe that this is a strong enough reason for a refusal on its own.

Whilst we understand the concerns raised in your email we feel that the amenity impacts are overstated and that these policies were intended for controlling the implementation of large HMOs and that they should not be so rigidly applied to HMOs that fall within use class C4. Especially in this instance where the change of use that was previously confirmed as lawful and has been substantially implemented in good faith prior to the introduction of the Article 4 Direction without any prior notification that the council intended to make the Article Direction.

Therefore, we respectfully ask you to reconsider before making your decision.

Yours faithfully,

Liam Nicholson

Cabinet

16 December 2025

Article Four Direction – Houses of Multiple Occupation

Portfolio Holder: Councillor Simon Curry, Portfolio Holder for Climate Change and Strategic Regeneration

Report From: Adam Bryan, Director of Place

Authors: Dave Harris, Chief Planning Officer
Catherine Smith, Head of Planning Policy
Chris Hawkins, Planning Consultant (DHA Planning)

Summary

This report presents to Members the recommendations for the imposition of Article 4 Directions within seven Wards within Medway (listed below). This report is accompanied by an evidence base that has considered the existing level of Houses of Multiple Occupation (HMOs) within Medway, and the impacts that these have on the existing residents. The report shows that there is a clear correlation between the proliferation of HMOs and anti-social behaviour, as well as the poor standard of accommodation.

1. Recommendations:

1.1 The Cabinet is asked to:

1.2 Approve the making of seven immediate Article 4 Directions to be brought into effect immediately. This will remove permitted development rights for the change of use from Use Class C3 dwellinghouses to Use Class C4 small houses in Multiple Occupation for the following Wards:

- Chatham Central and Brompton.
- Fort Pitt.
- Gillingham North.
Gillingham South.
- Luton.
- Strood North and Frindsbury.
- Watling.

1.3 Authorise the Assistant Director, Legal and Governance, to issue the relevant Direction and Notices to support the Immediate Article 4 Directions.

1.4 Note the content of the HMO Review and Evidence Paper as appended to this report at Appendix 4, that has been prepared to support the proposed making of the Immediate Article 4 Directions.

1.5 Authorise the Director of Place to consider comments received to the Notice and to thereafter confirm the Immediate Article 4 Directions.

2. Suggested Reasons for Decision(s)

2.1 The Council is responsible for ensuring that all residents have a satisfactory standard of accommodation and for the delivery of all types of housing to be of a high quality, while protecting the residential amenities of an area and the existing residents within it, to ensure both existing and future residents' needs are met.

2.2 There is sufficient evidence as set out in the appendices to this report, to suggest that the unregulated nature of HMOs within Medway within the relevant Wards is resulting in a poor standard of living, with subsequent and linked issues in terms of anti-social behaviour and detrimental impact on existing residential amenity.

3. Budget and Policy Framework

3.1 Policy H7 of the Medway Local Plan 2003 and Policy T8 of the Regulation 19 Draft Local Plan 2025 set out the criteria for assessing whether a proposed HMO is acceptable. However, this only relates to large scale HMOs comprising of more than 6 unrelated residents living together in a property who share basic amenities such as kitchen, living room and bathroom but have separate bedrooms.

3.2 The Town and Country Planning General Permitted Development Order 2010 (GPDO) brought forward a new use class for the Town and Country Planning (use classes) Order 1987 (as amended) being use class C4 - houses in multiple occupation for 3-6 occupants. The GPDO permitted the change of use of a Class C3 dwellinghouse to a Class C4 (small scale HMO) without the need for planning permission.

3.3 As a result of the new GPDO small scale HMO's are permitted development and C3 dwellinghouses can be converted to a C4 use without the need for planning permission and therefore an assessment against the Local Plan policy criteria set out above.

3.4 The National Planning Policy Framework (NPPF) 2024 sets out very clearly the need to deliver a sufficient supply of homes to meet the needs the residents of the area. The reasoned justification to the above Local Plan policies set out the important role that HMOs can play in providing affordable accommodation particularly for young professionals, but this is against an assessment of each proposal against a criteria within the policies that seeks

to ensure the quality of the accommodation, protection for existing family homes and to protect existing residential amenity.

- 3.5 The Town and Country Planning Act allows local authorities to remove permitted development rights through the serving of Article 4 directions where there is evidence that the use of those permitted development rights is causing harm to an area.
- 3.6 The sections below on compensation implications and finance set out the financial implications of the 2 options relating to the serving of an article 4, whether immediate or non-immediate. There is no budget set aside for dealing with compensation claims if the Cabinet were to go down the serving of an immediate Article 4 direction and therefore any justified and substantiated compensation claim would represent a financial pressure on the Council's budget.

4. Background

- 4.1 A house in multiple occupation (HMO) comprises a house or flat which is occupied by three or more unrelated people who share amenities. They can make an important contribution to the supply of overall housing, generally providing lower-cost accommodation. However, high concentrations of HMOs can have a detrimental impact on local housing areas. For example, they can involve a more intense use of a dwelling, may increase additional noise pollution, parking demands and pressure on local services. Through generally having a more transient population they can also impact on social cohesion.
- 4.2 In 2010, changes to the General Permitted Development Order (GPDO) introduced a new Use Class, C4, which comprises HMOs of between 3 and 6 unrelated occupants (generally referred to as small HMOs) and small bedsits. At the same time, Use Class C3 was amended and consists of the following:
- Class C3a - Those living as a single household as defined by the 2004 Housing Act 2004 (basically a 'family' where there is no limit on the number of members of the household).
 - Class C3b - Not more than six people living together as a single household and receiving care.
 - Class C3c - Not more than six people living together as a single household who do not fall within the C4 definition of an HMO (for example a small religious community, or homeowners with up to 2 lodger/s).
- 4.3 Planning permission is not usually required to convert a Use Class C3 dwellinghouse into a Use Class C4 small HMO. That conversion can be done under the permitted development rights set out in the GPDO. Exceptions to this apply where an Article 4 Direction has been made for an area.
- 4.4 In planning terms, the change of use of a Use Class C3 dwellinghouse to shared housing occupied by 7 or more people (a large sui-generis HMO) requires an express grant of planning permission.

Article 4 Directions

- 4.5 Article 4 Directions can be used by local planning authorities to remove certain permitted development rights in part or all of their area, thereby requiring planning permission for development that would otherwise be automatically permitted, known as 'deemed planning permission'. Article 4 Directions have tended to be used in conservation areas to exert greater control over extensions or other changes to buildings. However, they are also a means by which local planning authorities can exert greater control over small HMO developments which currently enjoy deemed planning permission.
- 4.6 The National Planning Policy Framework (NPPF) requires the use of Article 4 Directions to be limited to situations where it is necessary to protect local amenity or the wellbeing of the area and should be based on robust evidence and apply to the smallest geographical area possible.
- 4.7 The Planning Practice Guidance (PPG) requires the potential harm that an Article 4 Direction is intended to address to be clearly identified. Finally, it requires there to be a particularly strong justification if a Direction is related to a wide area, for example covering the entire area of a local planning authority.

5. Options

- 5.1 The Council is presented with the following options:

To accept the findings of the evidence base and to approve the making of an immediate Article 4 Direction to be brought into effect immediately. This will remove permitted development rights for the change of use from Use Class C3 dwellinghouses to Use Class C4 small houses in Multiple Occupation within any Ward as identified within the Direction.

- (a) To maintain a business-as-usual approach, considering planning applications for larger HMOs but not to propose the making of an Article 4 Direction to remove permitted development rights in relation to smaller HMOs.
- (b) To seek further evidence to further refine the boundaries of the Article 4 Directions within the seven specific Wards identified.

6. Advice and Analysis

Evidence

- 6.1 A separate document is appended to this report, which has been prepared to justify the introduction of Article 4 Directions within the seven identified Wards. This report has assessed the following evidence and information:
- Medway Council existing licencing records.
 - Census data related to multi-person households and tenure.
 - Planning applications for HMOs.
 - The amount of crime and anti-social behaviour within the identified Wards.

- Information regarding car ownership within the identified Wards.
- 6.2 Having regard to this evidence, it is considered that there is justification for the imposition of Article 4 Directions within the identified Wards.

Procedures to Make an Article 4 Direction

- 6.3 There are two main types of Article 4 Directions:
- (i) Direction with immediate effect: Schedule 3, Paragraph 2(1) of The Town and Country Planning (General Permitted Development) (England) Order 2015 provides a local authority with the power to make an immediate Direction that can withdraw permitted development rights with immediate effect without prior notice. The use of this power can only be used if the local authority considers that the development to which the Direction relates would be prejudicial to the proper planning of their area or constitute a threat to the amenities of their area.
 - (ii) Direction without immediate effect: Schedule 3, Paragraph 1(1) of The Town and Country Planning General Permitted Development (England) Order 2015 sets out the procedure which must be followed so that the Direction can legally take effect. This includes the process for making the Direction and publicity requirements.
- 6.4 In the case of the Article 4 Direction under consideration for the identified Wards, as shown on the appended plans, it is proposed that an immediate Direction is taken forward. It is considered that the criteria for making an immediate Direction as outlined within the supporting document has been met. This is due to the significant increase in recent small HMO developments coming forward as permitted development, without the ability for the Local Planning Authority to manage and control the amenity of the proposed occupants and neighbours, the concentration of HMOs in any single location and the management of important elements such as parking provision and bin storage. It is therefore considered that an immediate Article 4 Direction is essential to the proper planning of these seven Wards and will protect the amenity of existing and proposed occupiers.

Appeals Against an Article 4 Direction

- 6.5 There is no right of appeal against an Article 4 Direction. The decision of the Council to make a direction can, however, be subject to Judicial Review (JR) proceedings. If successful, the direction could be quashed.

Compensation Implications

- 6.6 In the case of any Direction that is brought into force without there being a period of at least 12 months from the date the Direction is made and the date upon which it comes into force, a statutory compensation liability may arise.

- 6.7 A claim can be made to the Council if planning permission is refused or granted subject to conditions other than those conditions imposed by the GDPO. The claim for compensation can include abortive expenditure and other loss or damage directly attributable to the withdrawal of the permitted development right. However, this is limited to the difference of the value of the land if the development had been carried out and its value in its current state, as well as the cost of preparing architectural plans for the works.
- 6.8 Compensation will not be payable if any claim is made after 12 months of the Direction coming into effect.

Making of the Direction and Consultation

- 6.9 The Cabinet is asked that authority be given for the immediate Article 4 Direction to be made. If authorisation is given then the Direction can be made, following which Medway must give notice as soon as practicable to introduce an immediate Article 4 direction by:
- Publishing a notice of the direction in a local newspaper.
 - Displaying at least two site notices for a period of not less than 21 days in the Wards that will be affected by the direction.
- 6.10 Advice is also given that where practicable, a Local Authority should serve notice on every owner and occupant of land to which the Direction relates. This size of the relevant areas means that notifying all landowners and occupiers would be impracticable, and so instead details will be sent to a mailing list of landlords and managing agents held by the landlord licensing team and those registered on the Council's Local Plan consultation database interested in being informed of consultations concerning planning material. The Council will also have to serve a notice to any statutory undertakers affected by the proposals.
- 6.11 The notice of the Article 4 Direction must:
- Include a description of the type of development for which permitted development rights will be removed and the area to which it relates.
 - Include a statement of the effect of the direction under Article 4.
 - Name a place where a copy of the direction and associated map can be inspected at all reasonable hours.
 - Specify the date that the Article 4 Direction comes into force.
- 6.12 In addition, Medway Council must notify the Secretary of State on the same day that the notice of an Article 4 Direction is published or displayed. The Secretary of State has the power to modify or cancel Article 4 Directions at any time before or after their confirmation, although they will not use their powers unless there are clear reasons why intervention at this level is necessary.
- 6.13 Whilst not a legal obligation, it is also considered good practice to publish a notice of the Article 4 Direction(s) on the Council's website. It is also

recommended that on the same day the notice of the Article 4 Direction is published or displayed, the Council publishes the evidence that it has prepared to justify the purpose and extent of the direction.

Confirming the Directions

- 6.14 The Council will make the Order for the Article 4 Direction which will come into effect immediately. Notice will then be given in accordance with legislative requirements of the making of the Order.
- 6.15 Following the notice period, a further report will then be made making a recommendation to the Director of Place as to whether or not the direction should be confirmed. This will consider any representations received in response to the notice of the immediate Article 4 Direction.
- 6.16 If a resolution is made to confirm the Direction(s), then the Council has to give notice locally (following the same procedures as outlined above) and notify the Secretary of State as soon as practicable. From the date that the Order is made for the immediate Article 4 Direction(s), planning permission will be required for a change of use from Use Class C3 to Use Class C4 in the designated areas.
- 6.17 This report is accompanied by an evidence base that has considered the existing level of HMOs within Medway and the seven wards referred to, and the impacts that these have on the existing residents. The report shows that there is a clear correlation between the proliferation of HMOs and anti-social behaviour, as well as the poor standard of accommodation.
- 6.18 The report recommends that Article 4 Directions be imposed upon the seven identified Wards with the justification as to why.

7. Diversity Impact Assessment

- 7.1 This proposal will ensure that all existing and future residents of Medway have better access to high quality housing.

8. Risk Management

- 8.1 With the imposition of immediate Article 4 Directions, as is set out within paragraphs 7.6 and 7.7 of this report, there would be the opportunity for owners of properties who have their planning application refused (who would not ordinarily require the benefit of planning permission) to seek compensation. At present, it is not possible to quantify this risk.
- 8.2 The level of risk could be managed by the Development Management department having a clear understanding as to how any planning policy would be applied to planning applications, and to have a clear methodology as to seeking to refuse applications on the basis of proliferation (for example, when more than 10% of properties within a specific area/street has been exceeded). At present that policy framework does not exist, but it may be that through the

development of the new Local Plan, this could be introduced prior to adoption (para. 49 NPPF).

9. Consultation and Engagement

9.1 The required level of consultation and engagement is set out at paragraphs 6.9 – 6.13 of this report.

10. Climate Change Implications

10.1 There are no significant climate change implications as a result of this proposal.

11. Financial Implications

11.1 The proposals outlined in this report do not have any immediate financial implications with the exception of minor costs relating to the advertising of the Article 4 Direction in local media outlets.

11.2 The Article 4 Direction will result in an increase in the number of full planning applications for conversions of dwellings to 'small' HMOs (that is between 3-6 residents). The cost of processing these will be partially recovered by planning application fees and the existing departmental revenue budget. There will be staff time associated with the preparation and implementation of the Article 4 Direction which cannot fully be recovered from external sources. However, it is expected that this will be absorbed into the existing service. Future monitoring of the numbers of small HMO planning applications will provide an accurate assessment of impacts.

11.3 There are two types of Article 4 directions, Immediate and Non-Immediate directions. As set out in the report above there are compensation implications in relation to an immediate direction. A claim for compensation can be made to the Council if planning permission is refused or granted subject to conditions in addition to those conditions imposed by the legislation 'the Town and Country Planning (General Permitted Development) Order 2015'. However, compensation is only payable if an application is made within 12 months of the Article 4 direction taking effect.

11.4 It is unknown how many applications are likely to be submitted and therefore not possible to accurately predict the extent of any financial risk or liability for the Council at this stage. However, any claim for compensation will only be in relation to the difference in value, if the Article 4 Direction was not in effect. Relevant planning applications for small HMOs should be robustly monitored during each financial year to evaluate any potential cost implication on the Council's general fund revenue budget.

11.5 There is no existing budget for dealing with compensation claims if the Cabinet were to go down the route of serving of an immediate Article 4 direction and therefore any justified and substantiated compensation claim would represent a financial pressure on the Council's budget. This could

possibly be met through existing revenue budgets within the planning service. However, as we are not able to accurately predict the extent of any financial risk or liability at this stage, we are not able to say with any certainty that this could be achieved.

12. Legal Implications

12.1 The legal implications of making an Article 4 direction are set out within this report.

Lead Officer Contact

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Appendices

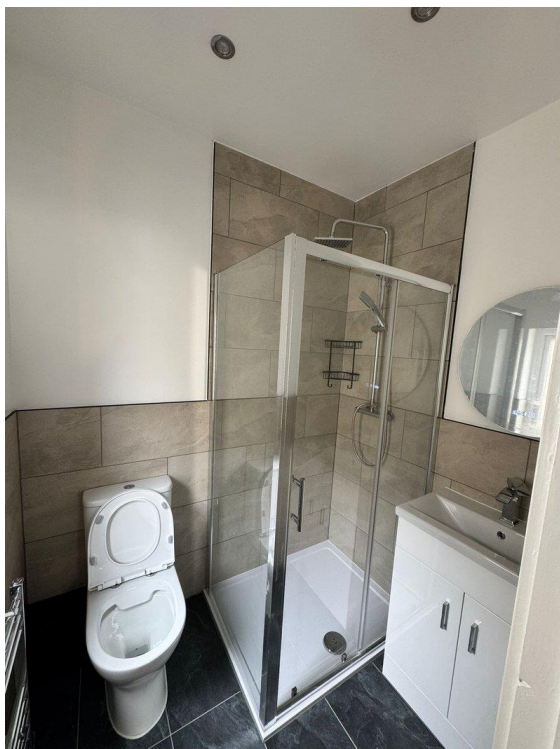
Appendix 1 to 3 – Location of current HMOs
Appendix 4 – HMO Review and Evidence Base

Background Papers

None

The following photographs demonstrate the high-quality finish and specification of the completed accommodation at 7 Camden Road, Gillingham.

Private Ensuite Facilities





Communal Kitchen



Bedrooms



