

Bath & North East Somerset Council

| | | |
|--|--|-----------------------------------|
| MEETING: | Cabinet | |
| MEETING DATE: | 10 th October 2012 | EXECUTIVE FORWARD PLAN REFERENCE: |
| | | E2467 |
| TITLE: | Houses in Multiple Occupation in Bath Supplementary Planning Document: Consultation Draft | |
| WARD: | All Wards in the City of Bath | |
| AN OPEN PUBLIC ITEM | | |
| List of attachments to this report: | | |
| Appendix A: Houses in Multiple Occupation in Bath: Supplementary Planning Document (Consultation Draft) | | |
| Appendix B: Draft Consultation Summary Report: Intention to Implement Article 4 Direction for HMOs in Bath | | |
| Appendix C: Stakeholder Workshop Report: Early Proposals for Additional Licencing and Supplementary Planning Document for Houses in Multiple Occupation in Bath | | |
| Appendix D: Equalities Impact Assessment of Draft Supplementary Planning Document | | |
| Appendix E: Draft Sustainability Appraisal Screening Report of Draft Supplementary Planning Document | | |

1 THE ISSUE

1.1 In response to concerns about the impact of high levels of Houses in Multiple Occupation (HMO) in Bath, the Cabinet considered a mixture of planning controls and housing-led solutions on 14th March 2012. The Cabinet agreed to make a non-immediate Article 4 Direction covering Houses in Multiple Occupation in Bath. Once confirmed, the Article 4 Direction will be supported by a Supplementary Planning Policy setting out the framework within which planning applications for a change of use from a dwelling house to a small HMO will be considered. The first draft of this has now been prepared entitled *Houses in Multiple Occupation in Bath: Supplementary Planning Document (Consultation Draft)* and is presented to Cabinet for agreement to publish for public consultation in Oct – Nov 2012.

1.2 The final decision to whether to implement the Article 4 Direction, adopt the Supplementary Planning Document and to proceed with Additional Licencing scheme for HMOs will follow in Spring 2013.

2 RECOMMENDATION

2.1 The Cabinet agrees that:

- (i) The *Houses in Multiple Occupation in Bath: Supplementary Planning Document (Consultation Draft)* (**Appendix A**) is agreed for public consultation;
- (ii) Responsibility is delegated to the Divisional Director of Planning & Transport, in conjunction with the Cabinet Member for Planning and Housing, to make final graphic and minor textual amendments prior to publication of the *Draft Houses in Multiple Occupation in Bath Supplementary Planning Document*;
- (iii) The responses from the Article 4 Direction public consultation in response to the “intention to implement” notice (**Appendix B**) and the findings presented in the Stakeholder workshop report (**Appendix C**) are noted;
- (iv) The Equalities Impact Assessment (**Appendix D**) of the draft SPD and the draft Sustainability Appraisal Scoping Report (**Appendix E**) are noted.

3 FINANCIAL IMPLICATIONS

3.1 Detailed work on the costs of implementing all of the options in relation to planning and housing controls was undertaken and was reported previously to Cabinet in March 2012. A full cost breakdown can be seen in section 3.3 of the 14th March 2012 Cabinet report and in Appendix C to that report *Implementation Cost Assessment Summary (Feb 2012)*.

3.2 Joint working arrangements between Planning and Housing on this project are in place to ensure that efficiencies are being made via joint public consultation activities, sharing evidence base and other technical work e.g. Equalities Impact Assessment.

3.3 There are direct cost implications of introducing the Article 4 Direction and in the preparation of the Supplementary Planning Document and associated consultation activities. This c£26k is funded within the LDF 2012-13 budget. There would be on-going costs to Planning Services of implementing these planning controls. **Table 1** summarises these costs.

Table 1: Headline cost impact summary

| | |
|--|---|
| Article 4 Direction Plus Threshold Policy | |
| Implementing an Article 4 Direction | c£15k set up – including public consultation – funded through LDF budget in 2012-13(not recoupable) |
| Preparing a threshold Policy in Supplementary Planning | c£11k set up – funded through LDF budget in 2012-13 (not recoupable) |

| | |
|---|---|
| Document | |
| On-going Development Management operations cost | c£31k recurring p.a. (not recoupable if implemented; from 1 st July 2013) |
| Additional Licensing | c£32k set up costs – including public consultation (potentially recoupable) On-going costs recouped through charging |

3.4 The direct costs of implementing the Article 4 Direction and preparing a Supplementary Planning Document (including required public consultation) have been met from additional funding allocated on 13th July 2011 from the Revenue Budget Contingency reserve.

3.5 The ongoing Development Management operational costs would be incurred from implementation of the Article 4 Direction and the associated Supplementary Planning Document. Any ongoing costs forming part of an agreed way forward will need to be considered alongside other priorities within the Planning Service 2013/14 budget.

3.6 Costs relating to implementing Additional Licencing are to be considered separately in Spring 2013 as part of the decision process on implementing this. Set-up costs for additional licencing have initially been covered by the reallocation of existing staff resources, ongoing work is underway to recoup set up costs through Licence Fee charging. Ongoing costs should be recoupable through Licence fee charging.

3.7 At this time, as no decision is yet being made to confirm the Article 4 Direction or adopt the Supplementary Planning Document, as a result of this report there are no costs which are being incurred that are not already budgeted for within 2012/13 or 2013/14.

4 CORPORATE PRIORITIES

4.1 This item contributes mainly to priority 2 “creating Neighbourhoods where people are proud to live”. There is also a need to consider the economic prosperity in considering this decision and equalities issues in promoting positive lives for everyone.

- *Promoting independence and positive lives for everyone*
- *Creating Neighbourhoods where people are proud to live*
- *Building a stronger economy*

5 THE REPORT

BACKGROUND

- 5.1 On 31st May 2012, a Direction was made under Article 4 of the GPDO publicising the Council's intention to implement an Article 4 Direction for the entire city of Bath in relation to Houses in Multiple Occupation from 1st July 2013. This notice will be advertised for 12 months and triggered a regulatory consultation period held between 31st May and 20th July 2012.
- 5.2 The Article 4 Direction, if confirmed, would mean that express planning permission is required for a change of use from a dwelling house (i.e. family house) to a small HMO (3-5 unrelated people living together). B&NES will not be able to collect a fee for the processing of these applications. Reasons for refusal of planning permission will still be required on a case by case basis.
- 5.3 The 2011 Arup Feasibility Study identified that the Council's existing Planning Policy (Local Plan Policy HG.12) would need to be supplemented or amended to make the Article 4 Direction more effective. A Supplementary Planning Document has now been produced setting out the framework within which planning applications for a change of use from a dwelling house to a small HMO will be determined and includes references to the data sources to be used in that determination. .
- 5.4 It should be emphasised, that an Article 4 Direction cannot be applied retrospectively and it would only control future changes of use from the date it comes into effect (proposed to be 1st July 2013). It would not therefore necessarily tackle any existing issues in areas that already have a high density of HMOs.
- 5.5 Alongside planning controls, the Council is currently exploring the potential to introduce a new additional licencing scheme for all HMOs with shared facilities and is centred around the wards of Oldfield Park, Westmoreland and Widcombe. This has the potential to be applied retrospectively and should also help deal with property management issues. These proposals are currently out for public consultation (until 30th November 2012).

PUBLIC CONSULTATION ON THE ARTICLE 4 DIRECTION NOTICE

- 5.6 A public consultation and formal notice period advertising the Article 4 Direction proposed for Houses in Multiple Occupation in Bath commenced on 31st May 2012. The formal procedures for this process were followed and the Secretary of State was notified.
- 5.7 Following this public consultation over 350 responses were received, which were overwhelmingly in support of the Article 4 Direction. The majority of respondents were residents of Oldfield Park and Westmoreland. Some Lower Weston and Widcombe residents who also supported the proposals. A number of residents groups also replied in support.
- 5.8 One respondent supported the Article 4 Direction but requested that Lorne Road (Widcombe Ward) be exempted from the scheme due to fears about the impact on their ability to sell their house at market rate if the Article 4 Direction is confirmed.

- 5.9 English Heritage and local heritage groups including Bath Heritage Watchdog and Bath Preservation Trust support the implementation of the Article 4 Direction, and felt the measures could also help improve the appearance and character of many areas.
- 5.10 Objections to the Article 4 Direction were received from the University of Bath and Bath Spa Student Unions, the National Landlord Association, the Residential Landlord Association and three individuals.
- 5.11 The Student Union continues to oppose the Article 4 Direction, as many students (and graduates) are reliant on HMOs to study in Bath and they believe that the Direction is not justified and could restrict housing choice and increase rents for students.
- 5.12 Landlords groups also oppose the Direction as they would not like to see greater regulations of private rental properties in Bath. They cite potential negative impacts such as: role of HMOs in providing much needed affordable options, impact on rental prices, costs incurred to the Council of implementing and potential displacement effects.
- 5.13 The Cabinet will need to formally make a decision to confirm the Article 4 Direction in spring 2013 prior to the advertised commencement date of 1st July 2013. At this stage the Cabinet is asked to note the draft Consultation Report (**Appendix C**).

DRAFT SUPPLEMENTARY PLANNING DOCUMENT

- 5.14 In line with the recommendations of the Arup (2011) Feasibility Report, a Supplementary Planning Document for HMOs in Bath has now been drafted (**Appendix A**). Cabinet is asked to agree this draft for public consultation and there is scope to add to or amend to this in light of the comments made.
- 5.15 The Council has considered the policy approaches of other authorities with Article 4 Directions or other HMO policies in place – in particular Oxford, Exeter, York, Canterbury and Welwyn and Hatfield – in setting the proposed policy (see **Appendix B**). Similar thresholds and processes are proposed as in these local authorities, and we have also simplified the process to integrate with data management systems used by both Housing and Planning teams.
- 5.16 The Supplementary Planning Document introduces a new threshold policy which supplements Local Plan policy HG.12. A two stage assessment process is proposed to make it as clear as possible for property owners or prospective property purchasers if permission is likely to be granted for future change of use to an HMO.
- 5.17 At Stage 1, if the property is located within an area (based on census data super output areas) where over 25% of existing houses are Houses in Multiple Occupation, there is likely to be an issue receiving planning permission for a change of use from a family house to a House in Multiple Occupation. These areas are clearly mapped. It is proposed that the base map will be updated twice a year on pre-specified dates and made available online.

- 5.18 Only properties within areas with over 25% existing HMOs will require a Stage 2 detailed assessment. It is proposed that the threshold is applied again within a more immediate 100m radius of the property. Should the property fail this assessment and it be demonstrated that over a quarter of the properties in the immediate vicinity are already HMOs this would result in the local planning authority refusing the application unless other material considerations are introduced that indicate otherwise.
- 5.19 The SPD also includes a guide to assessing whether a property qualifies as a “House in Multiple Occupation” as defined in the legislation and includes some guidance on design considerations for HMOs including waste and recycling, cycle parking and room layout. It also includes a reference to the proposed Additional Licencing scheme and existing Mandatory Licencing schemes operated by the local authority.
- 5.20 The result of this policy would be that permissions for change of use from a family home to a HMO could be refused in neighbourhoods with over 25% of the existing housing stock in use as an HMO. This would assist in maintaining community balance and a mix of tenure and household types.

6 RISK MANAGEMENT

- 6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.
- 6.2 An Article 4 Direction can be legally challenged in relation to whether there is a sound basis for its implementation. Government guidance advocates that local planning authorities should consider making article 4 directions only in:

exceptional circumstances where evidence suggests that the exercise of permitted development rights would harm local amenity or the proper planning of the area.

- 6.3 A Supplementary Planning Document can also be open to challenge, for example by planning appeal, however, every effort has been made to ensure that a robust policy approach is taken.
- 6.4 A limited number of Local Authorities have implemented Article 4 Directions or Supplementary Planning Documents in relation to HMOs so there is relatively little precedent. However, we have discussed with and learnt lessons from other authorities with similar issues who have implemented similar policies.

7 EQUALITIES

- 7.1 An equalities impact assessment has been undertaken and was considered previously by Cabinet on 14th March. This considered the cumulative impacts of the Article 4 Direction plus threshold policy in an SPD plus Additional Licencing.
- 7.2 The conclusions of the assessment can be summarised as follows:

- Could lead to a more dispersed distribution of HMOs, which could lead to poorer access to public transport for HMO residents and feeling of isolation from greater dispersion.
- Rental prices in most popular student areas could potentially rise (Oldfield Park, Westmoreland, Widcombe) which will affect people with lower salaries and students (both most likely to be young people).
- Wards with higher levels of BME populations also have high proportions of HMOs so these groups may be affected.
- May lead to the perception that HMOs are not welcome in the city and therefore make it harder for employers to attract lower paid workers or graduate employees.
- May result in loss of trade in some areas if current tenants are replaced by people with lower disposable income (e.g. young families or non-student HMO residents e.g. migrant workers)

7.3 An Equalities Impact Assessment has also been undertaken to consider the detail of the Supplementary Planning Document and is included as **Appendix D**.

7.4 This latest assessment identifies many of the same issues and also recommends that it must be ensured that the public consultation on the SPD is accompanied by appropriate guidance and that additional support is available for equalities groups. A series of open drop-in events in 5 locations are planned to help provide advice to groups such as students, local residents, equalities groups and landlords in order to address this and one-to-one meetings with equalities groups will also be sought.

8 RATIONALE

8.1 A response is required to deal with the high levels of HMOs in parts of Bath. The recommended approach – Article 4 Direction plus Supplementary Planning Document and Additional Licencing is considered to be the most effective approach as it seeks to tackle housing quality and management issues retrospectively through Additional Licencing while also seeking further control on the expansion of HMOs through Planning Controls.

9 OTHER OPTIONS CONSIDERED

9.1 Four possible options to deal with HMOs in Bath were identified and discussed by Cabinet on 14th March 2012 (the options were outlined in detail in Appendix 1 to that report).

9.2 Various more detailed options were also considered in setting the policy approach in the draft Supplementary Planning Document and these were discussed with stakeholders (see **Appendix C**).

10 CONSULTATION

10.1 *Ward Councillor; Cabinet members; Parish Council; Town Council; Overview & Scrutiny Panel; Staff; Other B&NES Services; Local Residents; Community Interest Groups; Charter Trustees of Bath; Section 151 Finance Officer; Chief Executive; Monitoring Officer*

- 10.2 Two stakeholder workshops have been held. The first, was held in in summer 2011 and considered options open to the Council in relation to greater management and control of HMOs in Bath feeding into the Arup Feasibility Study. In July 2012, a second workshop was held to consider the early proposals for the Supplementary Planning Document (alongside the proposed Additional Licencing scheme) – a workshop report is included as **Appendix B**.
- 10.3 A formal public consultation on the Council's intention to implement the Article 4 Direction for HMOs in Bath was held between 31st May 2012 and 20th July 2012. The proposals received significant public support, in particular from over 350 residents who responded. Opposition was lodged from both University Student Unions and national landlords groups. **Appendix C** summarises the consultation undertaken and summarises the responses.
- 10.4 A further six week period of public consultation is planned on the SPD for Oct – Nov 2012, and this will be linked to the ongoing consultation on the proposed Additional Licencing scheme is for all HMOs with shared facilities, and is centred around wards of Westmoreland, Widcombe and Oldfield Park. A series of 5 open events are planned for October in the following locations: Oldfield Park; Westmoreland; One Stop Shop, Manvers Street; the University of Bath Student Union and Bath Spa Student Union.
- 10.5 This item is due to be re-considered by the Planning, Transport & Environment Policy Development Scrutiny Panel in October 2012.

11 ISSUES TO CONSIDER IN REACHING THE DECISION

11.1 *Social Inclusion; Customer Focus; Sustainability; Other Legal Considerations*

12 ADVICE SOUGHT

12.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

| | |
|----------------------------------|--|
| Contact person | <i>David Trigwell Divisional Director - Planning and Transport, Planning and Transport Development</i> |
| Sponsoring Cabinet Member | <i>Councillor Tim Ball</i> |
| Background papers | <p><i>B&NES Committee Papers</i></p> <p>14th March 2012 Cabinet Report - Control and Regulation of Houses of Multiple Occupation in Bath: Implementation Options http://democracy.bathnes.gov.uk/documents/s15867/E2324%20Article%204%20HMOs.pdf</p> <p>14th March 2012 Development Control Committee Report - Control and Regulation of Houses of Multiple Occupation in Bath: Implementation Options</p> |

<http://democracy.bathnes.gov.uk/documents/s15893/DC%20Committee%2014%20March%20HMO%20Reportv3%2005.03.12.pdf>

6th December 2011 Planning, Transport & Environment Policy
Development Scrutiny Panel - Planning Control (Article 4 Direction) for
Houses in Multiple Occupation (HMOs) in Bath

<http://democracy.bathnes.gov.uk/documents/s8804/Article4Direction.pdf>

Other

B&NES Houses in Multiple Occupation webpage

www.bathnes.gov.uk/hmo

Please contact the report author if you need to access this report in an alternative format