

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Cllr Tim Ball, Cabinet Member for Planning and Licensing	
MEETING/ DECISION DATE:	On or after 8 th January 2022	EXECUTIVE FORWARD PLAN REFERENCE: E3334
TITLE:	Houses in Multiple Occupation (HMO) Supplementary Planning Document (SPD) Review	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Appendix 1 – Houses in Multiple Occupation Supplementary Planning Document Appendix 2 - Equality Impact Assessment of SPD Appendix 3 - SEA Screening Report of SPD Appendix 4 - Consultation Statement following statutory consultation of SPD		

1 THE ISSUE

- 1.1 Following a review of the performance of the current HMO SPD, including evidence update and targeted engagement, followed by statutory consultation under Regulation 12 (b) of the Town and Country Planning (Local Planning) (England) Regulations 2012, revisions to the current SPD are proposed relating to:

- Provision of additional guidance to support policy updates proposed within the Local Plan Partial Update (policy H2) relating to energy efficiency and providing a good standard of accommodation; and
- Updates to the assessments used to test planning applications for new and intensified HMOs.

2 RECOMMENDATION

The Cabinet Member is asked to agree that:

2.1 The Houses in Multiple Occupation Supplementary Planning Document (Appendix A) is adopted.

3 THE REPORT

Background

3.1 The current HMO SPD adopted in 2017 accompanies Placemaking Plan Policy H2 and sets out Bath & North East Somerset Council's approach to the distribution, and avoiding over concentration of, Houses in Multiple Occupation (HMOs).

3.2 It aims to encourage a sustainable community in Bath, by encouraging an appropriately balanced housing mix across the City, supporting a wide variety of households in all areas. The SPD does this by setting out guidance on the criteria for assessing planning applications.

3.3 Policy H2 is being updated as part of the Local Plan Partial Update in order to:

- Widen the scope of existing Policy H2, to refer to new build HMOs, the change of use to a HMO from other uses (e.g. commercial), and the intensification of small HMOs (C4) to large HMOs (sui generis).
- Introduce a policy requirement that all new HMOs achieve an Energy Performance Certificate rating of 'C' or above.
- Introduce a policy requirement that all HMOs provide a good standard of accommodation (with further guidance set out in the updated HMO SPD).

3.4 The HMO SPD has therefore been updated to provide additional guidance to support the policy updates proposed within the Local Plan Partial Update.

3.5 In addition, a review of the current tests used to assess planning applications for new HMOs has been carried out, and the tests have been updated, as described below.

The current SPD approach

3.6 The current HMO SPD adopted in 2017 sets out guidance on assessing planning applications within Bath for changes of use from C3 dwellings to C4 or sui generis HMOs, in support of placemaking plan policy H2. It states that such a change of use will not be permitted where:

- Criterion 1: It would result in any residential property (C3) being 'sandwiched' between two HMOs; or
- Criterion 2 Stage 1: The application property is within or less than 50 metres from a Census Output Area in which HMO properties represent more than 10% of households; and
- Criterion 2 Stage 2: HMO properties represent more than 10% of households within a 100-metre radius of the application property.

Proposed key changes to the SPD

3.7 The proposed key changes to the SPD are set out below in two sections. The first section describes changes that will apply as soon as the SPD is adopted, providing updated guidance to support current policy H2 in the Placemaking Plan.

3.8 The second section describes changes that will only apply once the Local Plan Partial Update has been adopted, providing guidance to support draft policy H2 in the Local Plan Partial Update.

Guidance that will apply as soon as the SPD is adopted

• HMO Concentration Threshold

3.9 Stakeholder engagement raised the question as to whether the 10% HMO concentration threshold set out in the current HMO SPD is suitable, or whether this should be reduced. Analysis of complaints mapping in Bath shows a correlation between higher concentrations of complaints in areas where the 10% threshold has been exceeded, indicating that the current 10% threshold is appropriate, but that applications proposed in areas where there is already a 10% concentration should be refused.

3.10 Although the threshold remains at 10%, additional guidance is provided to confirm that where an application results in a concentration of 10% or more, it will be refused. If an application results in a concentration of 9.9% or less it will be approved, subject to other considerations.

- **Removal of Census Output Area test**

3.11 The census output area test was included in the 2017 HMO SPD as stage 1 due to HMO mapping that shows the location and frequency of HMOs not being publicly available at that time. The Census Output Area test provided a way to understand whether proposals were likely to be acceptable or not. HMO data and mapping is now available to the public and applicants. Therefore, the Census Output Area test has been removed, to simplify the test process and ensure all applications are tested using the same assessments.

- **Sandwich test justification**

3.12 The existing sandwich policy test set out in the 2017 SPD ensures that planning permission would not be granted where the introduction of new HMOs would result in an existing residential property (C3) being sandwiched by any adjoining HMOs on both sides. This is to avoid the potential impact on neighbouring properties and aims to ensure that there is balance at street level. In order to provide applicants with clear reasoning as to why the sandwich test is required some pre-amble text to justify the provision of the sandwich policy has been added at section 4.1.

- **Sandwich test guidance for assessing flatted developments**

3.13 The current guidance states that subdivided units and flats will be considered on a case by case basis. This guidance has been reported to cause ambiguity for both applicants and decision makers in relation to whether the sandwich test should be applied to flatted developments, and if so, in which circumstances it should be applied. Clarity regarding this has been added to the HMO SPD, by defining the occurrence of sandwiching for flatted developments.

3.14 The SPD also includes a clause which allows an applicant to provide evidence of mitigation or circumstantial evidence to show that the sandwich test need not be applied or is not relevant to certain flatted developments, and sets out examples of this evidence.

- **100m radius test amendment**

3.15 The current 100m radius test set out in the 2017 HMO SPD requires the concentration of HMOs within close proximity of an application site to be assessed by drawing a 100m radius from the central point of the application property, as defined by the Local Land and Property Gazetteer (LLPG). All of the properties (both C3 residential and HMO) located within the radius count towards the concentration calculation. Properties on the edge of the 100 metre radius are only included if their central point (as defined by LLPG) is within the radius.

- 3.16 Following a discussion at Development Management Committee; stakeholder engagement and scenario testing has been carried out to assess whether using the central point of the properties located within the proximity of the site is a reasonable approach.
- 3.17 Based on the results of the scenario testing and discussions relating to usability of the test for officers, the 100m radius test has been updated to include any property which has any part of its site boundary within the radius. This removes an element of ambiguity in relation to where the central point of a property falls.
- 3.18 Guidance relating to how flatted developments are counted within the test has also been added.

Guidance that will apply following the adoption of the Local Plan Partial Update

- **Increase in applications assessed by SPD tests**

- 3.19 Placemaking Plan policy H2 and the current HMO SPD only require planning applications in the City of Bath which relate to a change of use from a C3 dwelling to a HMO to be assessed using the criteria set out in the SPD.
- 3.20 The scope of Policy H2 is proposed to be widened through the LPPU and will increase the scope of the type of applications to be assessed using the criteria, to include new-build HMOs, changes of use from other uses to HMO, and the intensification of existing HMOs. The HMO SPD has been updated in this respect. It should also be noted that this widened scope will apply to applications district-wide and not just in the city of Bath. This is because only a change of use from a C3 dwelling to a small HMO (C4 use) class is permitted development outside the city.

- **Additional guidance on providing a good standard of accommodation**

- 3.21 Additional guidance relating to providing a good standard of accommodation has been included within the SPD, in order to support amended LPPU policy H2 once it is adopted. The guidance includes information on Energy Performance Certificates and exemptions, bedroom size standards, noise reduction measures and ventilation.

- **Planning application submission requirements**

- 3.22 The list of planning application submission requirements has been updated to include a Site Location Plan and an EPC Certificate C (or evidence of exemption).

4 STATUTORY AND POLICY CONSIDERATIONS

- 4.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policy approach to achieving sustainable development. While it does not make specific reference to HMOs, key policy principles set out in the document are relevant. In particular, paragraph 59 of the NPPF states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed. Paragraph 61 goes on to say that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies, including those who require affordable housing, students, and people who rent their homes.
- 4.2 In light of concerns about the high concentrations of HMOs on the social balance and housing mix of parts of the City, the Council implemented an Article 4 Direction for the City which withdrew the Permitted Development Right to convert a dwelling house (Use Class C3) to a small HMO (Use Class C4) within the City of Bath. The Article 4 covers small HMOs only, because large HMOs already require planning permission. The Council also adopted the HMO SPD in July 2013 to provide the policy framework to assess planning applications required by the Article 4 Direction. The aim of the SPD is to avoid further high concentrations of HMOs developing in the City.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 The review and preparation of the revised Houses in Multiple Occupation SPD has been undertaken by the Planning Policy Team and the costs of its preparation and public consultation have been covered within the existing salary budget and the Council's Local Development Framework budget. The review of the SPD is not anticipated to increase resource requirements in relation to the determination of planning applications.

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 Data management: Not all non-licensable HMOs outside the additional licensing area are represented in the existing data, resulting in a potential underestimated figure of total HMOs within the District. This relates mainly to small HMOs (use class C4) outside the City of Bath. Outside of the City of Bath, planning permission is only required if there are 7 or more occupiers within a HMO (i.e. Sui Generis use class), whereas mandatory licencing will pick up any property with 5 or more occupants. This goes some way to including some HMOs (5 or 6

occupants) outside of the City of Bath within the data set. However, ensuring all 'hidden' HMOs are identified is a challenge for future data collection. Some HMOs have also reverted to C3 residential but are still registered as HMOs. Where licencing is required, these will be picked up in the data every five years, when a licence is not renewed for a property.

- 6.3 Both of these data uncertainty issues have been considered whilst preparing the updated HMO SPD, and they are not considered to impact the updates proposed to the document.

7 EQUALITIES

- 7.1 Pursuant to the public sector equality duty, an Equality Impact Assessment (EqIA) has been carried out for the HMO SPD. Occupiers of HMOs are made up of a wide range of individuals, including those protected by the Equality Act. The EqIA identifies the following examples of what the service has done to promote equality, potential adverse impacts on protected groups, and steps that have been or could be taken to address these impacts:

Protected group	Examples of what the service has done to promote equality	Examples of actual or potential negative or adverse impact and what steps have been or could be taken to address this
All groups	<ul style="list-style-type: none"> The continued use of the tests set out in the SPD should lead to a more dispersed pattern of HMOs in Bath, with HMOs in a wider range of neighbourhoods than currently experienced. The intention of the SPD is to encourage and maintain balanced and mixed communities that support the needs of all groups in society. It should also provide greater choice in terms of areas to live. Promoting a more balanced community, helping to make all feel welcome. The revisions to the HMO 	<ul style="list-style-type: none"> Potential negative impacts of dispersal of HMO occupiers over a larger area could lead to feelings of isolation for young people and other protected groups, who are forced to live further out and may feel unsafe travelling at night. <p>NB this will apply to all the groups considered below</p> <p>Action: <i>Ongoing monitoring of the SPD. Ongoing monitoring of planning permissions granted along public transport corridors.</i></p> <ul style="list-style-type: none"> Potential negative impacts of the requirement for new and intensified HMOs to meet Energy Performance Certificate 'C' include:

	<p>SPD include guidance on how landlords can aim to improve the quality of HMOs for occupiers, in relation to room sizes, noise reduction measures and ventilation. The requirement for new HMOs to meet Energy Performance Certificate 'C' could lead to more comfortable, energy efficient homes, with cheaper energy bills for occupants.</p> <p>NB these positive impacts will apply to all the groups considered below.</p>	<ul style="list-style-type: none"> - Potential for costs of works to bring properties up to EPC 'C' rating could be passed on to tenants in the form of increased rents. - Potential costs of works to bring properties up to EPC 'C' rating may discourage property owners to convert properties to HMOs, leading to a decline in the number of new HMOs available in the city and a decline in choice of location for occupiers. <p>NB this will apply to all the groups considered below</p> <p>Action: <i>Exemption relating to cost included in SPD, therefore capping the cost of works for landlords / owners. Ongoing monitoring of planning applications to understand whether there has been a decline in the number of HMO applications overall.</i></p>
Sex	As in 'all groups' above.	As in 'all groups' above.
Pregnancy and maternity	As in 'all groups' above.	<p>As in 'all groups' above; and</p> <p>Issues relating to the dispersal of HMOs to less sustainable areas with poorer access to public transport experienced by all groups may be intensified for pregnant women or parents with new children.</p> <p>Action: <i>Ongoing monitoring of impact of SPD on location / dispersal of HMOs and their relationship with public transport corridors.</i></p>
Gender reassignment	As in 'all groups' above.	The proposals are unlikely to create an impact on people in relation to gender

		reassignment. However, the Council would consider any representations made in this regard.
Disability	As in 'all groups' above.	<p>As in 'all groups above; and</p> <p>Issues relating to the dispersal of HMOs to less sustainable areas with poorer access to public transport experienced by all groups may be intensified for disabled people.</p> <p>Action: <i>Ongoing monitoring of impact of SPD on location / dispersal of HMOs and their relationship with public transport corridors.</i></p> <p>The completion of planning applications and licence applications forms can be difficult for some disabled people. The tests set out in the SPD may also be difficult for some disabled people.</p> <p>Action: <i>Guidance to be offered to applicants to complete the planning application process, and reasonable adjustments for disabled people are always considered. Pre-application advice option for officers to carry out tests for potential applicants.</i></p>
Age	<p>As in 'all groups; above and;</p> <p>Current issues associated with HMOs include isolation/ feelings of vulnerability among older people, the proposal should lead to more balanced communities as there is a greater choice in areas to live.</p> <p>The SPD helps to manage</p>	<p>As in 'all groups' above and;</p> <p>May push up rental prices in some areas (particularly Oldfield Park, Westmoreland and Widcombe area), often affecting those on lower incomes, and students, who tend to be younger people.</p> <p>Action: <i>Future provision of purpose built accommodation</i></p>

	<p>new HMOs in areas with a high concentration, allowing more families to stay in certain areas, and maintaining more balanced communities.</p> <p>More choice of high quality HMOs across the city will make it easier to attract young professionals/lower paid employees to Bath.</p>	<p><i>on transport corridors in site allocations plans.</i></p> <p>May lead to students and young people living in peripheral areas of the City possibly leading to feelings of isolation for young people that are forced to live further out.</p> <p>Action: <i>Ongoing monitoring of impact of SPD on location / dispersal of HMOs and their relationship with public transport corridors.</i></p>
Race	As in 'all groups' above.	<p>As in 'all groups above; and</p> <p>Wards with most ethnically diverse populations also have high proportions of HMOs, so these groups may be adversely affected by the potential inflated rental prices that may arise out of the proposals.</p> <p>Action: <i>Ongoing monitoring of impact of SPD. Ongoing monitoring of planning permissions granted along the public transport corridors.</i></p>
Sexual Orientation	As in 'all groups' above.	There is no evidence of any potential negative impacts in respect of sexual orientation.
Religion / belief	As in 'all groups' above.	None identified.
Socio-economically disadvantaged*	As in 'all groups' above.	<p>As in 'all groups above; and</p> <p>May push up rental prices in some areas (particularly Oldfield Park, Westmoreland, and Widcombe areas) that will affect those with lower incomes.</p> <p>Action: <i>Ongoing monitoring of impact of SPD. Ongoing monitoring of planning permissions granted along the public transport corridors.</i></p>

Rural communities ¹	<p>As in 'all groups' above.</p> <p>Potentially increasing the choice in areas to live within the city, e.g. young people living at home in rural areas, may be able to move out, as HMOs are dispersed across the city</p>	<p>As in 'all groups above; and</p> <p>Potential for feeling that HMOs are unwelcome within the City and for greater numbers of HMOs to appear outside the city in more rural areas.</p> <p>Action: <i>Ongoing monitoring of impact of SPD on dispersal to more rural areas.</i></p>
Armed forces community ²	<p>As in 'all groups' above.</p> <p>More choice of high quality HMOs across the city providing shared housing options across B&NES for ex armed forces.</p>	<p>As in 'all groups above; and</p> <p>Potential negative impacts of HMO dispersal to less sustainable locations could lead to feelings of isolation for ex armed forces who are forced to live further out.</p> <p>Potential positive impacts relating to better standard of shared accommodation being secured, providing high quality shared housing options for ex armed forces.</p> <p>Action: <i>Ongoing monitoring of impact of SPD on location / dispersal of HMOs and their relationship with public transport corridors.</i></p>

8 CLIMATE CHANGE

8.1 One of the main reasons for partially updating the Local Plan is to ensure that the Council's planning policies are amended to contribute toward achieving carbon neutrality by 2030 in response to the declaration of the Climate Emergency. Policy H2 has been updated to require all new and intensified

¹ There is no requirement within the public sector equality duty of the Equality Act to consider groups who may be disadvantaged due to socio economic status, or because of living in a rural area. However, these are significant issues within B&NES and have therefore been included here.

² The Equality Act does not cover the armed forces community. However, when the Armed Forces Bill becomes law there will be a requirement to pay 'due regard' to make sure the Armed Forces Community are not disadvantaged when accessing public services.

HMOs to meet Energy Performance Certificate 'C' or above. The updated HMO SPD provides guidance to support this and sets out relevant exemptions.

9 STRATEGIC ENVIRONMENTAL ASSESSMENT SCREENING

9.1 A Strategic Environmental Assessment (SEA) Screening Report has been produced to determine the need for a SEA in accordance with the European Directive 2001/42/EC (SEA Directive) and associated Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations). The screening report is provided at appendix 3 of this report. Based on the information set out in the screening report, it is considered that the HMO SPD will not give rise to significant environmental effects. It is therefore proposed that a Strategic Environmental Assessment is not required for the proposed HMO SPD.

10 OTHER OPTIONS CONSIDERED

Street level measurement

10.1 A street level measurement test was considered, instead of the 100m radius test, to give a more localised concentration calculation. Scenario testing indicated that this test option would not pick up homes located to the rear of the application property, and some areas where the threshold had already been met under current tests could see an increase in HMOs overall.

11 CONSULTATION

Stakeholder Engagement

11.1 As part of preparing the revised Draft SPD, numerous stakeholder engagement sessions were held in order to scope stakeholder views on associated issues. The aims of the workshops were:

- To bring stakeholders together to share and understand different perspectives related to HMOs;
- To share data related to both need for HMOs and impacts of HMOs;
- To test potential interventions that might help to create balanced and sustainable communities;
- To investigate whether the current 10% threshold is working successfully;
- To discuss how the current SPD might be updated to create a more user friendly document.

11.2 A wide range of stakeholders were represented at the workshops, including:

- Ward Councillors from across Bath
- Councillors on the Planning Committee, B&NES Council

- Development Management Officers, B&NES Council
- Housing, Transport, Council Tax Officers, B&NES Council
- Bath Spa University
- Bath Student Community Partnership
- Estate Agents
- Local Resident Associations

11.3 The information collated at the stakeholder engagement sessions is summarised within the Consultation Statement included at appendix 4 of this report.

Webinars

11.4 A webinar relating to proposed amendments to the HMO SPD was held for the public on 26th January 2021.

11.5 A second webinar was held on 6th September 2021, to update the public on the content of the Draft HMO SPD, and inform them of the formal consultation taking place.

Statutory Consultation

11.6 Statutory consultation under Regulation 12 (b) of the Town and Country Planning (Local Planning) (England) Regulations 2012 was undertaken for 7 weeks on the Draft HMO SPD, between 27th August and 18th October 2021.

11.7 A Consultation Statement has been prepared in accordance with Regulation 12 of The Town and Country Planning (Local Planning) (England) Regulations 2012 setting out details of the consultation, a summary of the responses received, and Council comments on each of the key issues raised. This is available to review at appendix 4.

Contact person	Alice Nunn, Senior Planning Officer: alice_nunn@bathnes.gov.uk
Background papers	<p>Equality Impact Assessment of SPD (appendix 2)</p> <p>SEA Screening Report of SPD (appendix 3)</p> <p>Consultation Statement following statutory consultation of SPD (appendix 4)</p>
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