

Appendix 4 - Consultation Statement

**Bath & North East Somerset Council
Houses in Multiple Occupation (HMO)
Supplementary Planning Document (SPD)**

**Consultation Statement
December 2021**

**Bath & North East
Somerset Council**

Improving People's Lives

1 Introduction

- 1.1 This statement sets out the stakeholder engagement and consultation carried out during the update of Bath and North East Somerset Council's Houses in Multiple Occupation Supplementary Planning Document (HMO SPD).
- 1.2 The statement has been prepared in accordance with Regulation 12 of The Town and Country Planning (Local Planning) (England) Regulations 2012, which requires the Council to prepare a statement setting out the persons the local planning authority consulted when preparing the SPD, a summary of the main issues raised by those persons, and how those issues have been addressed.
- 1.3 This statement explains how the consultation was undertaken and who has been consulted, details of how they were consulted, a summary of the issues raised, and how the main issues have been addressed in preparing the HMO SPD.

2 Background to the HMO SPD update

- 2.1 The Council's 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).
- 2.2 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 criteria for assessing planning applications.
- 2.3 Policy H2 is being updated as part of the Local Plan Partial Update (LPPU) in order to:
 - Widen the scope of existing Policy H2, to refer to new build HMOs, the change of use to 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).
- 2.4 The HMO SPD has therefore been updated to provide additional guidance to support the policy updates proposed within the Local Plan Partial Update.
- 2.5 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.
- 2.6 The consultation carried out on the updated draft HMO SPD related to specific updates to the SPD. The main updates comprise:
- **Increase in applications assessed by SPD tests**, to align with LPPU update to policy H2.
 - **HMO concentration threshold** - 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.
 - **Removal of census output area test**, due to public availability of HMO data and to simplify the test process.
 - **Inclusion of sandwich test for flatted development**, to avoid ambiguity for applicants and decision makers in relation to whether the sandwich test should be applied to flatted developments.
 - **Update to the way in which properties in the 100m radius test are counted**, in order to remove ambiguity in relation to where the central point of a property falls.
 - **Inclusion of additional guidance on providing a good standard of accommodation**, to support updated policy H2 in the LPPU. The guidance includes information on Energy Performance Certificates and exemptions, bedroom size standards, noise reduction measures and ventilation.
 - **Update planning application submission requirements**, to include a Site Location Plan and an EPC Certificate C (or evidence of exemption).

3 Consultation approach

- 3.1 The Council's approach to consultation for SPDs is set out in the Council's [Neighbourhood Planning Protocol](#) (Statement of Community Involvement). This approach requires:
- Stage 1 – Informal community involvement in the preparation of the Draft SPD.
 - Stage 2 – Formal consultation on the Draft SPD, for a 7-week period.
 - Stage 3 – Notification of adoption to all those who made written comments during the consultation period.
- 3.2 The information set out in this Consultation Statement demonstrates compliance with the Neighbourhood Planning Protocol (Council's SCI) methods of community involvement. However, due to the unprecedented situation caused by Covid-19, and after careful consideration by the Council, all consultation (including engagement sessions) were held online.

4 Key Stakeholder Engagement

- 4.1 As part of the preparation of the revised Draft SPD, four stakeholder engagement sessions were held, 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.
- 4.2 A 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

4.3 The online stakeholder engagement workshops were held via Zoom between 10th – 18th February 2021. Each session was tailored to the group involved. However, the main structure of the sessions were as follows:

- Pre-Engagement Event - Briefing and options document circulated via email to all participants at least 1 week prior to their session.
- Engagement Event - Officer presentation via Zoom to each group, explaining data collection analysis results, key issues arising from analysis, and options for Draft SPD, followed by discussion with stakeholders structured around each key issue / option.

4.4 The outcomes of the stakeholder engagement sessions are set out in the table below:

Key Issue	Comments received
Reducing the HMO concentration threshold level	<ul style="list-style-type: none"> - Mixed response. - Some stakeholders consider reduced threshold (e.g. 7%) more appropriate to protect more areas from issues related to higher concentrations of HMOs. - Some stakeholders consider 10% to be appropriate, with a lower threshold leading to wider spread of HMOs, potentially to less sustainable / accessible locations.
Removal of Census Output Area (COA) Test and retention of 100m radius test.	<ul style="list-style-type: none"> - General support for removal of COA test, so all sites tested using 100m radius test. - Some concern relating to whether areas with higher concentrations of HMOs under COA test could see increase in numbers due to more localised 100m test.
Introduction of street level concentration measurement instead of 100m measurement test.	Majority of stakeholders concerned that more localised test (e.g. street level) would lead to increase in HMOs within local areas which have already reached the 10% threshold under current tests.
Change 100m	- Mixed response

measurement test using central point of property to wider boundary such as the shape of a building or a site as a whole.	<ul style="list-style-type: none"> - Some stakeholders consider whole site boundary option most appropriate. - Some stakeholders consider impracticalities of using whole site boundary too great.
Sandwich test for flatted developments	General support for introduction of sandwich test for flatted developments.
Safeguarding affordable family homes	<ul style="list-style-type: none"> - Mixed response. - Majority of stakeholders support some form of policy to safeguard existing family dwellings. - Some stakeholders feel this would be an unnecessary restriction, further removing options for lower cost housing for those in need in Bath.
Additional guidance on providing a good standard of accommodation	Majority of respondents support any guidance updates which support provision of good quality accommodation.

4.5 Information collected at the stakeholder engagement sessions were used to prepare the Draft HMO SPD.

5 Webinars

Webinar 1

- 5.1 A webinar relating to proposed amendments to the HMO SPD, along with HMO related updates to the LPPU, was held for the public on 26th January 2021.
- 5.2 61 people attended the webinar, and the recording has since been viewed over 200 times.
- 5.3 35 questions were asked using the Q&A function during the live session. 5 questions were submitted by email prior to the live session.
- 5.4 Comments raised by attendees were received on the following key topics:
 - Introduction of EPC C for all new HMOs

- Unnecessary Census Output Area Test in current SPD
- Existing overconcentration of HMOs in areas of Bath
- Intensification of existing HMOs
- Enforcement and licensing issues
- Impact on family homes
- Parking
- Purpose Built Student Accommodation

5.5 Comments received at the webinar were recorded and taken into account during the evidence collation stage in the preparation of the Draft SPD.

Webinar 2

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

5.7 9 people attended the webinar, and the recording has since been viewed 77 times.

5.8 2 questions were asked during the webinar, and 2 questions were submitted by email prior to the live session. Officers also answered questions raised during the first webinar.

5.9 The comments received related to the following key topics:

- Existing overconcentration of HMOs in areas of Bath
- Intensification of existing HMOs
- EPC requirement for HMOs
- Parking
- Purpose Built Student Accommodation
- Appeals

5.10 Queries raised at the webinar were answered live, and comments from attendees were taken into consideration during the analysis of formal consultation responses.

6 Formal consultation on Draft HMO SPD

6.1 Formal consultation on the Draft HMO SPD was carried out for 7 weeks between 27 August to 18 October 2021. On the run up to, and during this period, the following was undertaken:

- **Notification mailout** – Information about the consultation was issued prior to the start of the consultation period by email and post to all those on the Council’s mailing list, including statutory consultees and a range of other stakeholders.
- **Press releases** – Three press releases were issued on 3rd August, 27th August, and 23rd September 2021 to remind residents and others of the opportunity to comment on the Draft HMO SPD.
- **Social media** – Various posts were posted on the Council’s social media pages throughout September 2021 to remind residents and others of the opportunity to comment on the Draft HMO SPD.
- **Dedicated webpage** – A webpage relating to the consultation could be accessed via links from the main Planning Policy webpage. The webpage set out the policy background, a document overview of the SPD, explanatory text as to how the updates to the SPD might impact different users, recordings of webinars, consultation details, including how to respond and links to the comment form, and SPD adoption timeline.
- **Direct contact information** - An email address was provided on mailouts and press releases for those who wanted to ask direct questions and seek further information.

7 Summary of responses to the consultation and Council response to key issues raised

7.1 A total of 64 responses were received in relation to the Draft Houses in Multiple Occupation (HMO) Supplementary Planning Document (SPD) consultation. A summary of responses and key issues raised is set out in the table below, along with a proposed Council response (drafted by officers) to each of these.

Question / key issue	Summary of responses	Council response to issue raised
<p>We asked respondents to comment on whether they thought a 10% HMO concentration threshold was appropriate.</p>	<ul style="list-style-type: none"> - 56% of respondents agreed that it is appropriate - 41% did not agree - 3% had no preference <p>Of those who did not agree, respondents considered that:</p> <ul style="list-style-type: none"> - The threshold should be lower due to issues commonly associated with higher concentrations of HMOs in parts of Bath, and loss of family homes. - The threshold should be higher, allowing for more HMOs, in order to ensure young professionals aren't continued to be priced out of the rental market, requiring them to commute into Bath. - The threshold should be lowered over time, or not be considered as a fixed percentage due to some areas of the city being more suitable for HMOs than others (i.e. close to education establishments). <p>Some respondents highlighted concern regarding areas where the concentration of HMOs has already exceeded 10%, noting that the guidance was brought in too late, and does not help to reduce numbers of HMOs in these areas.</p> <p>It was also noted that the intensification of HMOs should be considered inappropriate in areas of high HMO concentration.</p>	<p>Based on detailed research carried out in the preparation of the Draft SPD, officers consider that the 10% threshold should remain as per the Draft SPD.</p> <p>Comments relating to areas where a high concentration already exists cannot be dealt with through the planning system.</p> <p>Comments relating to intensification of HMOs in areas of high concentration are dealt with within the Draft Local Plan Partial Update (policy H2).</p> <p>Recommendation: No change</p>

<p>We asked respondents to comment on whether they agreed to the removal of the census output area test, so that applications are tested solely using the 100m radius test.</p>	<ul style="list-style-type: none"> - 63% of respondents agreed to its removal - 27% did not agree - 11% had no preference <p>Of those who did not agree, respondents considered that:</p> <ul style="list-style-type: none"> - Using two tests (COA test and 100m radius test) is more accurate. - Removal of the Census Output Area test will increase numbers of HMOs. 	<p>The reason for the removal of the census output area test relates to more HMO data being available to users, therefore no longer requiring the census output area test, therefore streamlining the test process for users.</p> <p>Scenario testing carried out during the preparation of the Draft HMO SPD did not show a lack of accuracy following its removal, or a potential general increase in HMO numbers.</p> <p>Recommendation: No change</p>
<p>General comments relating to the 100m radius test were provided as part of the previous question.</p>	<p>Respondents considered that:</p> <ul style="list-style-type: none"> - Testing applications on a case-by-case basis would be more appropriate, with some respondents citing Bath's varying density as a reason why using 100m radius is inappropriate. - Calculation should be based on postcode area, rather than 100m radius. - Radius should be a different size (suggestions range between 50m – 300m). - Concern that test doesn't take into account size of HMO or occupant numbers. - Test should count PBSA. - Provision should be made for a situation where the 100m radius circle includes fewer than 10 residential properties. 	<p>Each of these scenarios was tested whilst working up the Draft HMO SPD. The 100m radius test was considered to be the most appropriate option. Concern relating to occupancy numbers is dealt with within the Draft Local Plan Partial Update (policy H2). Inclusion of PBSA within the calculation is not considered appropriate. There are very few scenarios within the City where a 100m radius picks up fewer than 10 properties, therefore specific guidance</p>

		<p>on this scenario is considered unnecessary.</p> <p>Recommendation: No change</p>
<p>We asked respondents to comment on whether the site boundary should be used when measuring properties to be included in the 100m radius test calculation, rather than the central point of the main building currently used.</p>	<ul style="list-style-type: none"> - 67% of respondents agreed that the site boundary should be used - 25% did not agree - 8% had no preference <p>Of those who did not agree, respondents considered that:</p> <ul style="list-style-type: none"> - The centre of the main building should be used, rather than the boundaries. - Not appropriate due to variety of densities across the city. - Using boundary of site may skew 100m radius due to different size of plots compared to central point test. - Potential negative implications for roads with green space opposite. 	<p>These issues were all considered whilst working up the Draft HMO SPD. Although using site boundaries rather than central points may skew the 100m radius if properties have, for example, long gardens, it is considered that including gardens within the test is appropriate due to some of the issues commonly associated with HMOs relating to use of gardens. Using the site boundary also removes the ambiguity for users relating to where a central point lies.</p> <p>Recommendation: No change</p>
<p>We asked respondents to comment on whether they agreed with the draft sandwiching test set out in the SPD for flatted</p>	<ul style="list-style-type: none"> - 77% of respondents agreed - 9% did not agree - 14% had no preference <p>Of those who did not agree, not many comments providing reasoning were provided, though one respondent considered that as flats are built for reasons relating to space constraint and affordability, they should not be tested in the same way as</p>	<p>Issues commonly associates with HMOs can occur in flats as well as houses, therefore it is considered appropriate to include a sandwich test for flatted developments. No mechanism exists within the planning system to require the sandwich test to be applied to existing HMOs.</p>

developments.	general housing. Another comment related to sandwiching already occurring throughout the city, indicating that the sandwich test should apply to existing HMOs as well as proposed.	Recommendation: No change
<p>We asked respondents whether they agreed with the clause within the guidance which allows applicants to provide evidence of circumstantial evidence or mitigatory measures to demonstrate that no harm would occur in an incidence of sandwiching in a flatted development.</p>	<ul style="list-style-type: none"> - 41% of respondents agreed - 42% did not agree - 11% had no preference <p>Of those who did not agree, respondents considered that:</p> <ul style="list-style-type: none"> - The clause provides an unnecessary loophole for developers, and that a blanket refusal policy would be more consistent. - Concern that over time layouts can be changed which would negate proposed sound proofing measures. - ‘Comings and goings’ of students harmful, which cannot be solved through insulation. - Need for rigorous testing and inspection of mitigation proposed. - Concern relating to whether sound insulation is practical in flatted development, particularly if the building is listed. 	<p>A blanket refusal policy was considered whilst drafting the HMO SPD. However, this was considered inappropriately restrictive due to the differences between flatted developments and general housing in terms of management.</p> <p>Although changes in layout could potentially occur overtime, a blanket refusal policy for future safeguarding is considered overly restrictive.</p> <p>Movement of HMO occupants in and out of buildings is considered to be an issue relating to concentration, rather than sandwiching.</p> <p>Practicalities of sound insulation instalment will be considered as part of the evidence required to be submitted by applicants.</p> <p>Recommendation: No change</p>

<p>We asked respondents to comment on whether they agreed with the minimum space standards set out in the SPD.</p>	<ul style="list-style-type: none"> - 47% agreed with the standards - 28% did not agree - 25% had no preference <p>Of those who did not agree, respondents considered that:</p> <ul style="list-style-type: none"> - 6.51 sqm is too small for a single bedroom as you cannot fit desk in the room. - Shared space standards too cramped. - Recommendation that additional guidance is added to include that one wall in room must be at least 7 feet long. - Amount of light, orientation, and relationship with outside space should be included in the standards. 	<p>The standards are based on licencing standards for HMOs, providing officers with specific planning guidance to justify refusal of planning applications where rooms do not meet licensing standards.</p> <p>Recommendation: No change</p>
<p>We asked respondents to comment on whether they agreed that the exemptions set out in the SPD in relation to Energy Performance Certificates were reasonable.</p>	<ul style="list-style-type: none"> - 41% agreed that the exemptions were reasonable - 38% did not agree - 22% had no preference <p>The majority of comments related to the requirement for all HMOs to meet EPC C set out in the LPPU, rather than the exemptions set out in the SPD. Officers shall take these comments into account when analysing responses to policy H2 in the LPPU. The comments that related directly to the SPD exemptions stated that:</p> <ul style="list-style-type: none"> - There should be no exemptions. If an EPC rating of C or above cannot be achieved, the property should not be a HMO. - Exemption relating to upper £10K limit could be increased if considered over time rather than a one-off payment. 	<p>Officers consider that the exemptions set out in the SPD are reasonable as they are in line with the exemptions set out in current national legislation and a recent Government consultation relating to Energy Performance ratings for rental properties.</p> <p>The suggestion relating to increasing the £10K limit if considered overtime would be difficult to control as part of a planning application.</p> <p>The listed building exemption is not an exemption for all listed buildings –</p>

	<ul style="list-style-type: none"> - Some works to listed buildings are possible and shouldn't be exempt. 	<p>applicants must evidence that required energy reduction measures would unacceptably alter the character or appearance of a heritage asset.</p> <p>Recommendation: Additional text to be added to the SPD to advise the reader to review the Council's Energy Efficiency, Retrofitting and Sustainable Construction SPD for guidance on measures which may be suitable for a listed building.</p>
<p>We asked respondents whether they agreed with the sound reduction and ventilation guidance set out in the SPD.</p>	<ul style="list-style-type: none"> - 66% agreed with the proposed guidance - 17% did not agree - 17% had no preference <p>The main issues related to:</p> <ul style="list-style-type: none"> - Guidance should be a requirement, rather than a recommendation. - Ventilation requirements should be more detailed. - Public areas and areas outside of the property also have noise issues. 	<p>The guidance provides examples of sound reduction and ventilation measures which may be considered by applicants. If development management officers feel that an application would be harmful without provision of some of these measures, they can require them via condition. Noise issues in external areas are not controllable through sound reduction measures set out in the SPD.</p> <p>Recommendation: No change</p>