

Draft Houses in Multiple Occupation Supplementary Planning Document

Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report

Introduction and Purpose

1. Cheshire East Council (“the council”) has produced a draft Houses in Multiple Occupation Supplementary Planning Document (“HMO SPD”). The purpose of the HMO SPD is to provide guidance on the assessment of planning applications for HMOs adding further detail to the policies within the Development Plan.
2. The Development Plan for Cheshire East currently consists of the Cheshire East Local Plan Strategy (LPS) and the ‘saved’ policies contained within existing Local Plans¹. In addition made Neighbourhood Plans also form part of the Development Plan.
3. The council is currently preparing its Site Allocations and Development Policies Document (SADPD) and this will form the second part of the Local Plan. The Publication Draft SADPD was published for six weeks consultation between the 19 August and the 30 September 2019. The Publication Draft SADPD includes Policy HOU 4: Houses in Multiple Occupation. The HMO SPD is being prepared in conformity with both the LPS and the emerging SADPD.
4. This document comprises the Screening Report to determine whether or not the HMO SPD requires a Strategic Environmental Assessment (SEA) and/ or a Habitats Regulations Assessment (HRA).
5. This statement, alongside the draft SPD will be the subject of consultation in accordance with the relevant regulations and the Council’s Statement of Community Involvement. This will include the relevant statutory bodies (Natural England, Environment Agency and Historic England).

Strategic Environmental Assessment Screening

Legislative Background

6. The basis for Strategic Environmental Assessments and Sustainability Appraisal (SA) legislation is European Directive 2001/42/EC which was transposed into English law by the Environmental Assessment of Plans and Programmes Regulations 2004, or SEA Regulations.
7. The Planning and Compulsory Purchase Act 2004 required Local Authorities to produce Sustainability Appraisals (SA) for all local development documents to meet the requirement of the EU Directive on SEA. It is considered best practice to incorporate requirements of the SEA Directive into an SA.

¹ Including the Congleton Local Plan, Crewe & Nantwich Local Plan and the Macclesfield Local Plan.

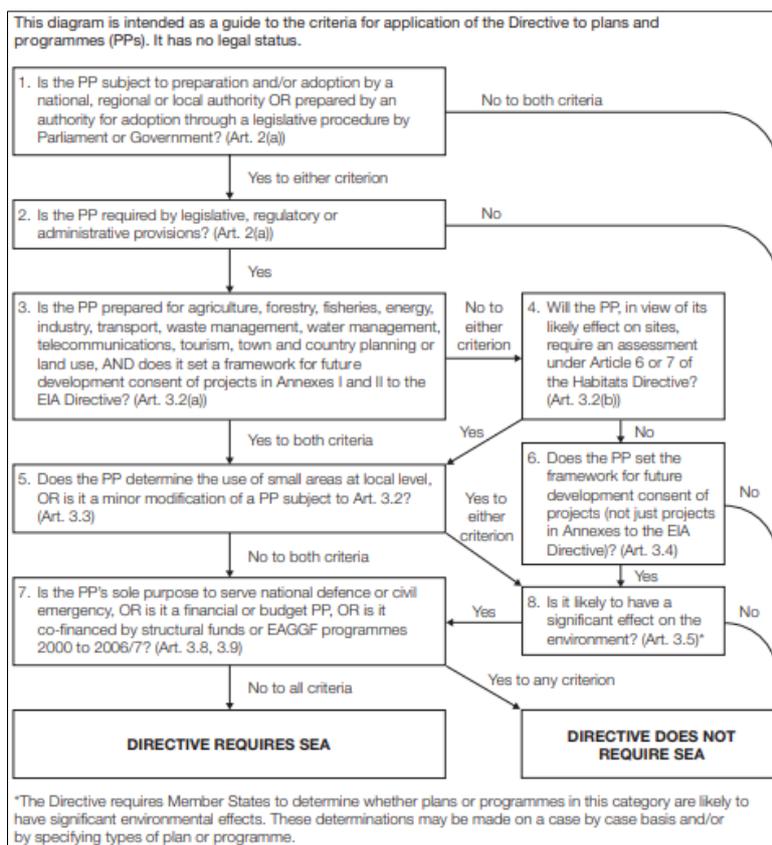
8. Planning Practice Guidance (PPG) outlines the difference between sustainability appraisal, strategic environmental assessment and other forms of assessment. A sustainability appraisal ensures that potential environmental effects are given full consideration alongside social and economic issues. Whereas strategic environmental assessment considers only the environmental effects of a plan. The PPG is clear that SA is not required for SPDs however they may, in exceptional circumstances, require SEA if they are likely to have significant environmental effects that have not already have been assessed during the preparation of relevant strategic policies.
9. Both the LPS and emerging SADPD have been subject to SA/ SEA.

SEA Screening Process

10. The council is required to undertake a SEA screening to assess whether the draft HMO SPD is likely to have significant environmental effects. If the HMO SPD is considered unlikely to have significant environmental effects through the screening process, then the conclusion will be that SEA is not necessary.
11. 'A Practical Guide to the Strategic Environmental Assessment Directive (2005)²' provides guidance on how to comply with the SEA Directive. Figure 1 below outlines the process for establishing the need for SEA.

² <https://www.gov.uk/government/publications/strategic-environmental-assessment-directive-guidance>

Figure 1: Application of the SEA Directive to plans and programmes



Source: A Practical Guide to the Strategic Environmental Assessment Directive (2005)

12. The guidance in Figure 1 is intended to apply to all plans and programmes in the UK which fall within the scope of the Directive. This guide has been used as the basis to identify if there is a need for the SPDs to engage in the SEA process. See Table 1 below.

Table 1: Establishing the need for a SEA

Stage	Decision	Rationale	
1.	Is the SPD subject to preparation and/or adoption by a national, regional or local authority OR prepared through a legislative procedure by Parliament or Government? (Art. 2 (a)).	Yes	Following a stakeholder and public consultation, the Council intends to adopt the SPD for use when preparing and assessing planning applications for HMOs.
2.	Is the SPD required by legislation, regulatory or administrative provisions? (Article. 2 (a)).	No	The Council's Local Development Scheme (2018 – 2020) does not specifically identify the need to produce an HMO SPD.
3.	Is the SPD prepared for agricultural, forestry, fisheries, energy, industry, transport, waste management, telecommunications, tourism, town and country planning or land use, AND does it set a framework for future development consent of projects in Annexes I and II to the EIA Directive? (Article 3.2 (a)).	No	The SPD is being prepared for town and country planning use. It does not set a framework for future development consent of projects in Annexes I and II to the EIA Directive (Article 3.2 (a)).

4.	Will the SPD, in view of its likely effect on sites, require an assessment under Article 6 or 7 of the Habitats Directive? Art 3.2 (b)).	No	A Habitats Regulations Assessment has been undertaken for the LPS and emerging SADPD. The SPD does not introduce new policy or allocate sites for development, therefore it is not considered necessary to undertake a HRA assessment for the SPD.
6.	Does the SPD set the framework for future development consent of projects (not just projects in Annexes to the EIA Directive)? (Art. 3.4)	No	The LPS and emerging SADPD provide the framework for the future consent of projects. The SPD elaborates upon approved and emerging policies and does not introduce new policy or allocate sites for development.

13. The final question in the guide asks: is it likely to have a significant effect on the environment? (Art. 3.5)*. The SPD is not considered not to have a significant effect on the environment and therefore SEA is not required. However, for completeness, Table 2 assesses whether the draft SPD will have any significant environmental effects using the criteria set out in Annex II of SEA Directive 2001/42/EC³ and Schedule 1 of the Environmental Assessment of Plans and Programmes Regulations 2004⁴.

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001L0042&from=EN>

⁴ http://www.legislation.gov.uk/uksi/2004/1633/pdfs/uksi_20041633_en.pdf

Table 2: Criteria for determining the likely significance of effects

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the Plan likely to have a significant environmental effect (Yes / No)
1.Characteristics of the draft SPD having particular regard to:		
(a) The degree to which the SPD sets out a framework for projects and other activities, either with regard to the location, nature, size or operating conditions or by allocating resources.	<p>The draft SPD provides additional guidance related to policies contained within the LPS and emerging SADPD both of which have been subject to SA / SEA.</p> <p>The draft SPD provides further clarity and certainty to form the basis for the submission and determination of planning applications for HMOs consistent with policies in the LPS and emerging SADPD.</p> <p>Final decisions will be determined through the development management process.</p> <p>No resources are allocated.</p>	No
(b)The degree to which the SPD influences other plans and programmes including those in a hierarchy.	The draft SPD provides additional guidance to assist the delivery of policies in the development plan. The draft SPD is in general conformity with these policies. Both the LPS and emerging SADPD have been subject to a full Sustainability Appraisal (incorporating SEA).	No
(c)The relevance of the SPD for the integration of environmental considerations in particular with a view to promoting sustainable development.	The SPD will promote sustainable development by providing guidance on the implementation and compliance with policies contained in the LPS and emerging SADPD. The LPS and SADPD has been the subject of a full Sustainability Appraisal (incorporating SEA).	No
(d)Environmental problems relevant to the SPD.	The SPD will not introduce or exacerbate any environmental problems. Rather it will help to address environmental problems by ensuring that HMOs are designed to a high standard and are appropriately located to promote sustainable development.	No
(e)The relevance of the SPD for the implementation of Community legislation on the environment (for example plans and programmes related to waste management or water protection).	The SPD provides further detail to assist in the assessment of planning applications for HMOs. The SPD will not impact on the implementation of community legislation on the environment.	No
2.Characteristics of the effects and area likely to be affected having particular regard to:		
(a)The probability, duration, frequency and reversibility of the effects.	No adverse effects on environmental interests resulting from the implementation of the SPD have been identified. The guidance will be used to aid the determination of planning applications and will thereby help ensure that the duration and frequency of adverse environmental effects are minimised or mitigated. The SPD will support the delivery of development that is in	No

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the Plan likely to have a significant environmental effect (Yes / No)
	conformity with policies within the LPS and emerging SADPD, thereby reinforcing the sustainability outcomes of those plans.	
(b)The cumulative nature of the effects of the SPD.	The effect of the SPD will be largely beneficial therefore any cumulative impacts will also be beneficial.	No
(c)The trans boundary nature of the effects of the SPD.	The SPD is not considered to have cross boundary impacts.	No
(d)The risks to human health or the environment (e.g. due to accident).	There are likely to be improvements to human health and the environment as the SPD will be used to ensure that HMOs are designed to a high standard and are appropriately located to promote sustainable development.	No
(e)The magnitude and spatial extent of the effects (geographic area and size of the population likely to be affected) by the SPD.	The SPD covers the Cheshire East administrative area which has a population of approximately 380,800. The SPD will affect those making planning applications for, and indirectly those living within HMOs.	No
(f)The value and vulnerability of the area likely to be affected by the SPD due to: <ul style="list-style-type: none"> • Special natural characteristics of cultural heritage • Exceeded environmental quality standards or limit values • Intensive land use 	There are a range of special natural characteristics in the Borough including Ramsar sites, a Special Protection Area, Special Areas of Conservation, Sites of Special Scientific Interest, a National Park and locally important sites as well as heritage assets including Scheduled Monuments, areas of archaeological significance, listed buildings, Registered Parks and Gardens, Conservation Areas and other locally important assets. These are protected, conserved and enhanced by policies in the LPS and emerging SADPD which also set out prescribed standards to be met for environmental and design quality and intensity of land use. The SPD is unlikely to have a significant impact on these areas.	No
(g)The effects of the SPD on areas or landscapes which have recognised national Community or international protected status.	Impacts on such areas will be considered through the application of other LPS and emerging SADPD policies which have been subject to SEA	No

Conclusion

14. The screening assessment demonstrates that the draft HMO SPD is unlikely to have significant effects on the environment. Therefore, it is concluded that a Strategic Environmental Assessment is not required. This screening statement will be updated after public consultation has taken place.

Habitats Regulations Assessment Statement

15. The Council has considered whether its planning documents would have a significant adverse effect upon the integrity of internationally designated sites of nature conservation importance. European Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna (Habitats Directive) provides legal protection to habitats and species of European importance. The principal aim of this directive is to maintain at, and where necessary restore to, favourable conservation status of flora, fauna and habitats found at these designated sites.
16. The Directive is transposed into English legislation through the Conservation of Habitats and Species Regulations 2017 (a consolidation of the amended Conservation of Habitats and Species Regulations, 2010) published in November 2017.
17. European sites provide important habitats for rare, endangered or vulnerable natural habitats and species of exceptional importance within the European Union. These sites consist of Special Areas of Conservation (SACs, designated under the EU Directive 92/43/EEC on the conservation of natural habitats and of fauna and flora (Habitats Directive)), and Special Protection Areas (SPAs, designated under EU Directive 2009/147/EC on the conservation of wild birds (the Birds Directive)). Government policy requires that Ramsar sites (designated under the International Wetlands Convention, UNESCO, 1971) are treated as if they are fully designated European sites for the purposes of considering development proposals that may affect them.
18. Spatial planning documents may be required to undergo Habitats Regulations Screening if they are not directly connected with or necessary to the management of a European site. As the draft SPD is not connected with, or necessary to, the management of European sites, the HRA implications of the draft SPD have been considered.
19. Both the LPS and emerging SADPD have been subject to HRA.
20. The SPD does not introduce new policy, it provides further detail to those policies contained within the LPS and emerging SADPD, both of which have been subject to HRA. It is highlighted that Publication Draft SADPD Policy HOU 4: Houses in Multiple Occupation was screened out of the requirement for Appropriate Assessment in the HRA because it is a general policy with no spatial reference. The HRA concluded that it could not have any conceivable effect on a European site. The same applies to the HMO SPD.
21. The HMO SPD either alone or in combination with other plans and programmes, is not likely to have a significant effect on any European site. Therefore a full Appropriate Assessment under the Habitats Regulations is not required.

Conclusion

22. Subject to the views of the three statutory consultees (the Environment Agency, Historic England and Natural England), this screening report indicates that SEA is not required for the HMO SPD. Similarly, it would not need to be subject to full Appropriate Assessment under the Habitats Regulations

References

Cheshire East Local Plan Strategy

- [Habitats Regulations Assessment](#) (main modifications stage) Feb 2017
- Sustainability Appraisal: includes the following documents:-

[Adoption Statement](#)

[LPS Main Modifications Sustainability \(Integrated\) Appraisal Further Addendum Report](#)

[Sustainability \(Integrated\) Appraisal - Proposed Changes to Strategic and Development Management Policies \(July 2016\)](#)

[Sustainability \(Integrated\) Appraisal – Proposed Changes \(March 2016\)](#)

[LPS Sustainability \(Integrated\) Appraisal Suggested Revisions to LPS Chapters 9-14 \(September 2015\)](#)

[LPS Sustainability \(Integrated\) Appraisal of Planning for Growth Suggested Revisions \(August 2015\)](#)

[LPS Submission Sustainability \(Integrated\) Appraisal \(May 2014\)](#)

Publication Draft Site Allocations and Development Policies Document

- [Habitats Regulations Assessment](#)
- [Sustainability Appraisal](#)