

Portfolio Holder Decision

Report Title: Draft Houses in Multiple Occupation Supplementary Planning Document

Portfolio Holder: Cllr Toni Fox - Planning

Senior Officer: Frank Jordan, Executive Director - Place

1. Report Summary

- 1.1. This report seeks approval to carry out six weeks of public consultation on the draft Houses in Multiple Occupation Supplementary Planning Document (“HMO SPD”). Ultimately the intention would be to adopt the HMO SPD as a Supplementary Planning Document (“SPD”) following consultation and the publication of a final version, taking into account any feedback received.
- 1.2. Once adopted, the SPD will provide additional planning policy guidance for the assessment of planning applications for Houses in Multiple Occupation across the Borough. The SPD is intended to complement the introduction of other controls for HMOs including the making of three, non-immediate Article 4 Directions for small HMOs in parts of Crewe.

2. Recommendations

- 2.1. To consider the views of the Strategic Planning Board.
- 2.2. Subject to 2.1, above, to approve the Draft Houses in Multiple Occupation Supplementary Planning Document (Appendix A) for six weeks of public consultation.
- 2.3. To publish the associated Strategic Environmental Assessment and Habitats Regulations Screening Report (“SEA”) (Appendix B)

- 2.4. To publish the associated Equalities Impact Assessment Screening Report (“EQIA”) (Appendix C)

3. Reasons for Recommendations

- 3.1. The preparation of an SPD is one of a range of measures currently being considered by the Council in order to better manage concentrations of HMOs and improve standards.
- 3.2. An SPD is not part of the statutory development plan. It is a recognised way of putting in place additional planning guidance which will be a material consideration in determining applications involving relevant planning proposals.

4. Other Options Considered

- 4.1. The Council could choose not to prepare an SPD for HMOs. Any planning applications for HMOs would be assessed against existing planning policies.
- 4.2. While there is no requirement to produce an SPD to support the introduction of Article 4 Directions, it is often considered best practice to do so. The SPD will strengthen the policy framework when determining planning applications for HMOs and in defending subsequent appeals made against refused proposals.
- 4.3. The SPD would be a material consideration in the determination of all planning applications for changes of use to HMOs across the borough and not just those dwellings that may be affected by an Article 4 Direction (once brought into effect).

5. Background

- 5.1. HMOs are defined as single dwellings occupied by a number of separate households/ unrelated individuals. Under the Town & Country Planning (Use Classes) Order 1987 (as amended) a small HMO (Class C4) accommodates between 3 and 6 unrelated individuals and a large HMO (Sui Generis – outside of any use class) accommodates 7 or more unrelated individuals.
- 5.2. The Town and Country Planning (General Permitted Development) Order 2015 (GPDO) provides permitted development rights for the change of use of a dwelling (Class C3) to a small HMO (Class C4) without the need to apply to the council for planning permission. The change of use of a dwelling to a larger HMO (Sui Generis) requires the submission of a planning application.

- 5.3. Article 4 of the GPDO enables local planning authorities to withdraw specified permitted development rights in a defined area. Once an Article 4 Direction comes into force, a planning application is then required for the specific permitted development withdrawn. The withdrawal of permitted development rights does not imply that planning applications will be automatically refused if they are submitted. The submission of a planning application simply gives the local planning authority opportunity to consider a proposal against relevant planning policies, supplementary planning documents (where available) and any other material planning considerations.
- 5.4. At its meeting on the 3 December 2019, Cabinet considered a report which sought authorisation to make 3 non-immediate Article 4 Directions to remove permitted development rights for the change of use of dwellings to small HMOs (accommodating 3-6 unrelated individuals) in parts of Crewe. The removal of permitted development rights was authorised at that meeting and justified based on evidence of high concentrations of HMOs in those particular areas together with a coincidence of local amenity issues.
- 5.5. In the report to Cabinet, it was stated that additional planning policy guidance in the form of a draft Supplementary Planning Document (SPD) would be prepared to align with the Article 4 Direction(s) coming into force.
- 5.6. While it is not a requirement that an SPD is produced to support an Article 4 Direction, it is considered best practice to ensure their effective implementation. The SPD would be a material consideration in the determination of all planning applications for changes of use to HMOs across the borough, not just those dwellings that may be affected by an Article 4 Direction (once brought into effect).
- 5.7. Unfortunately, due to the recent Covid-19 pandemic, progress with the Article 4 Directions has been delayed. This is due to legislative requirements which require consultation documents to be placed 'on deposit' for public inspection at council offices and at such other places within the borough (normally libraries) during normal office hours.
- 5.8. Whilst there has been some disruption to the anticipated timetable for the introduction of the Article 4 Directions, work has continued with the preparation of the draft SPD. In the event that the SPD is approved for public consultation, this will take place at the earliest opportunity, alongside the consultation for the three non-immediate Article 4 Directions in Crewe.

Purpose of the SPD

- 5.9. HMOs and the wider private rented sector play an important role in meeting housing needs. However a saturation of HMOs in a particular location can have negative impacts upon that area, for example the number of homes available for families or those wanting to purchase their first home may reduce due to a high demand for investment properties. In addition, the occupation of dwellings as HMOs by a higher number of adults compared to a typical family home, can place additional demands on services and infrastructure, for example increased waste generation.
- 5.10. The planning system can assist in maintaining and achieving a balance of households within the Borough's neighbourhoods, ensuring that different housing needs are met whilst protecting the interests of other residents, landlords and businesses.
- 5.11. The Draft HMO SPD builds upon existing development plan policies found in the Cheshire East Local Plan Strategy (adopted July 2017) and 'saved' policies within previous Local Plans. The SPD is also drafted to complement the proposed additional policy regarding HMOs in the emerging Site Allocations and Development Management Document.
- 5.12. The SPD will provide detailed guidance for all parties involved in the planning application process, explaining how the council will assess planning applications involving the change of use of buildings to HMOs across the Borough.
- 5.13. The Draft SPD:
- Explains what a HMO is, in planning terms, and identifies the circumstances where planning permission could be needed;
 - Identifies the national and local planning policies of relevance when considering planning applications for HMOs;
 - Sets out more detailed policy guidance that will be used to assess planning applications for HMOs, including information requirements;
 - Provides an overview of other regulatory requirements for HMOs including licencing and relevant standards for HMOs;
 - Explains how the effectiveness of this SPD will be monitored.

Key Principles

- 5.14. The SPD includes a number of key principles which will be used by the council when assessing planning applications for HMOs. In summary these include:

Avoiding/ exacerbating concentrations of HMOs

- 5.15. In order to maintain and support mixed and balanced communities, a maximum of a 10% concentration of HMOs within a 50 metre radius is proposed. Planning permission will not be granted for new HMOs or proposals to extend existing HMOs to accommodate additional residents, where the number of dwellings already in use as HMOs within a 50 metre radius of the application site exceeds 10% of the dwellings in that area.
- 5.16. In addition, any proposals that would result in an existing property (Use Class C3) being sandwiched by HMOs on either side will not be permitted.

Achieving good standards of accommodation.

- 5.17. Planning applications for HMOs will be assessed to ensure that they provide good standards of accommodation for the proposed number of residents in order to protect the residential amenity of future occupiers of the HMO and any adjacent residents. The draft SPD includes guidance on minimum internal room sizes, waste storage and disposal requirements, car parking and cycle parking and outdoor amenity space requirements.

Residential amenity

- 5.18. Any proposed change of use (or extension of) a HMO should not have an unacceptable impact on the levels of amenity that existing neighbouring residents can reasonably expect to enjoy. This is particularly relevant when considering the use of semi-detached or terraced properties, properties in narrow streets or densely developed areas where potential impact is likely to be more concentrated and directly affecting neighbouring residents.

Impact upon the character and appearance of the area

- 5.19. All proposals must be sensitively designed to take account of their surroundings. This includes any means of escape required for fire safety reasons.

Display of advertisements

- 5.20. In areas with high levels of HMOs and rented properties, there is the potential for a proliferation of signage which can detract from the street scene and adversely affect residential amenity. The SPD encourages the timely removal of boards once a property has been let. Should there be evidence of a proliferation of boards and issues with their timely removal, the SPD signals that consideration may be given to taking further steps to secure compliance with legislation. This could include a voluntary code of practice or the withdrawal of deemed consent in areas with high levels of HMOs.

Monitoring the SPD

- 5.21. The effectiveness of this SPD will be monitored as part of the Authority Monitoring Report process, using information from planning applications and decisions. The outcome of this monitoring will help to inform decisions with regard to future revisions of the SPD.

Next Steps

- 5.22. If approved for consultation, the SPD will be subject to a six week consultation period in accordance with the Council's adopted Statement of Community Involvement.
- 5.23. Following the closure of the formal public consultation period, any comments received will be considered and, where appropriate, changes will be made to the document.
- 5.24. The results of that consultation (in the form of a consultation report) and the final draft SPD must then, under planning regulations, be published to allow representations to be made to them prior to a decision by Cabinet to formally adopt the SPD.
- 5.25. The Strategic Planning Board will consider the draft SPD at its meeting on 29 July and, as set out at 2.1 and 2.2 of this report, the recommendation to approve the draft SPD for consultation is subject to the views of the SPB being taken into account.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. The Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Development) (England) Regulations 2012 provide the statutory framework governing the preparation and adoption of supplementary planning documents. Amongst other things, the 2012 Regulations require that an SPD contains a reasoned justification of the policies within it and stipulate that it must not conflict with adopted development plan policies. The National Planning Policy Framework and the associated Planning Practice Guidance sets out national policy and guidance about the circumstances in which SPDs should be prepared.

6.1.2. Supplementary Planning Documents are guidance which add further detail to the policies in the development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.

6.1.3. Regulations 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012 set out the requirements for producing Supplementary Planning Documents.

6.1.4. The process for preparing Supplementary Planning Document(s) is similar in some respects to that of a local plan document. However, they are not subject to independent examination by the Planning Inspectorate.

There will be a number of stages in the production of the SPD:

- Publish the initial draft SPD for six weeks public consultation.
- Consider feedback received and make any changes necessary.
- Publish the final SPD along with a consultation statement setting out who has been consulted in its preparation, the main issues raised in feedback and how those issues been addressed in the final draft SPD.

- Having considered representations, the SPD may then be adopted. Following adoption it must be published along with an adoption statement.
- Following the adoption of the SPD, it may be challenged in the High Court by way of a Judicial Review within 3 months of its adoption.

Strategic Environmental Assessment

6.1.5. Strategic Environmental Assessment involves evaluation of the environmental impacts of a plan or programme. The requirement for SEA is set out in the European Directive 2001/42/EC adopted into UK law as the “Environmental Assessment of Plans or Programmes Regulations 2004”.

6.1.6. The SEA Directive sets out a legal assessment process that must be followed. Often within the planning context, the SEA requirements are met by incorporating it within a Sustainability Appraisal (“SA”), which is a requirement for Development Plan Documents.

6.1.7. There is no legal requirement for Supplementary Planning Documents to be accompanied by SA, and this is reinforced in Planning Practice Guidance (PPG ref: 11-008- 20140306). However, “in exceptional circumstances” there may be a requirement for SPDs to undertake Strategic Environmental Assessment where it is felt they may have a likely significant effect on the environment that has not been assessed within the SEA/SA of the Local Plan. A screening assessment has been undertaken (in Appendix B) which has determined that a SEA (or an appropriate assessment under the Habitats Regulations) is not required for the SPD.

6.1.8. The SPD may affect a persons rights under the Human Rights Act 1998 in that Article 1 of the First Protocol: Protection of property protects a person right to enjoy their property peacefully. A public authority cannot take away a persons property, or place restrictions on its use, without very good reason. The Council consider that the introduction of the SPD is in the public interest.

6.2. Finance Implications

6.2.1 There are no significant direct financial costs arising from the approval to consult on the draft SPD. It will be published on the Council’s website and made available in the council’s offices and libraries for interested parties to view. The costs of printing and the staff time in developing the SPD are covered from existing planning budgets.

6.3. **Policy Implications**

6.3.1. The SPD will expand and amplify existing development plan policy.

6.4 **Equality Implications**

6.4.1 The Public Sector Equality Duty was created by the Equality Act 2010 in order to harmonise the previous race, disability and gender equality duties and to extend protection to the protected characteristics of age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation.

6.4.2 In summary, the Council must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

6.4.3 Having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

6.4.4 A copy of the Equality Impact Assessment Screening Report (Appendix C) is proposed to be published alongside the draft SPD.

6.5. **Human Resources Implications**

6.5.1 There are no direct implications for human resources.

6.6. **Risk Management Implications**

6.6.1 There are no direct implications for risk management.

6.7. Rural Communities Implications

6.7.1 It is unlikely that there will be direct implications for rural communities given that the majority of HMOs tend to be located within the borough's towns. In the event that a HMO is proposed in a rural area, the SPD will provide additional guidance when considering planning applications.

6.8. Implications for Children & Young People/Cared for Children

6.8.1 Once adopted, the SPD would provide additional planning guidance when dealing with planning applications for HMOs. This guidance may have positive implications for those living within HMOs and other dwellings in the vicinity. This could benefit children and young people/ cared for children.

6.9. Public Health Implications

6.9.1 Once adopted, the SPD would provide additional planning guidance when dealing with planning applications for HMOs. This guidance may have positive implications for those living within HMOs and other dwellings in the vicinity. This could benefit the wellbeing of an area and public health.

6.10. Climate Change Implications

6.10.1 There are no direct implications for climate change.

7. Ward Members Affected

7.1 All wards are affected as the SPD will apply borough-wide.

8. Consultation & Engagement

8.1 It is proposed that the draft SPD be subject to six weeks consultation. Following this, all comments will be considered and revisions made as appropriate before a final version of the SPD is prepared for approval.

9. Access to Information

9.1 The following documents are appended to this report:

Appendix A: Draft HMO SPD

Appendix B: SEA/HRA Screening Report

Appendix C: Draft Equalities Impact Assessment Screening Report

10. Contact Information

10.1 Any questions relating to this report should be directed to the following officers:

Name: Claire Coombs

Job Title: Principal Planning Officer (Strategic Planning)

Email: claire.coombs@cheshireeast.gov.uk

Name: Jeremy Owens

Job Title: Development Planning Manager

Email: jeremy.owens@cheshireeast.gov.uk