

## **Environment and Communities Committee**

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<b>Date of Meeting:</b>	09 September 2021
<b>Report Title:</b>	Houses in Multiple Occupation Supplementary Planning Document
<b>Report of:</b>	Paul Bayley, Director of Environment and Neighbourhood Services
<b>Report Reference No:</b>	EC/12/21-22
<b>Ward(s) Affected:</b>	All wards

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### **1. Executive Summary**

- 1.1.** This report seeks approval to adopt the Houses in Multiple Occupation Supplementary Planning Document (“HMO SPD”). Upon adoption it would be a material consideration in the determination of relevant planning applications for new or extended HMOs. The HMO SPD has been subject to two separate consultation stages, the most recent of which took place in April/ June 2021.
- 1.2.** The 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 also identifies additional plans and policies that are currently in preparation. Guidance is provided to parties involved in the planning application process, explaining how Cheshire East Council (‘the Council’) will assess planning applications involving the change of use of buildings to HMOs across the Borough.
- 1.3.** This report outlines the consultation process that has been undertaken, the representations received and how they have informed the final HMO SPD.

### **2. Recommendations**

- 2.1.** That the Environment and Communities Committee:
  - 2.1.1.** Considers the key issues raised in the responses received to the public consultation that took place between April and June 2021 and the corresponding modifications to the Houses in Multiple Occupation

Supplementary Planning Document as set out in the Report of Consultation (Appendix 1).

**2.1.2.** Approves the Houses in Multiple Occupation Supplementary Planning Document for adoption (Appendix 2).

### **3. Reasons for Recommendations**

- 3.1.** Supplementary Planning Documents (“SPDs”) are not part of the statutory development plan but are a recognised way of putting in place additional planning guidance. They are capable of being a material consideration in determining applications involving relevant planning proposals.
- 3.2.** The preparation of the HMO SPD is one of the ways the Council can better manage concentrations of HMOs and improve their standards.
- 3.3.** The preparation of the HMO SPD has been informed by two rounds of six-week consultation in October – December 2020 and more recently in April – June 2021. The views of the Strategic Planning Board were also sought before each consultation and comments raised taken on board in preparing the initial and final draft documents. The next step is to adopt the final version of the SPD taking into account the representations received.
- 3.4.** Upon adoption, the HMO SPD would be a material consideration in the determination of all planning applications for changes of use (or extensions) to HMOs across the borough.

### **4. Other Options Considered**

- 4.1.** The Council could choose not to approve the HMO SPD for adoption. Any planning application received for Houses in Multiple Occupation (“HMOs”) would continue to be assessed against adopted planning policies.

### **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) always 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<sup>rd</sup> 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.** The three non-immediate Article 4 Directions in parts of Crewe were made on the 6<sup>th</sup> October 2020 and public consultation about them took place between 19<sup>th</sup> October and 11<sup>th</sup> January 2021. The Directions were subsequently confirmed on the 4<sup>th</sup> June 2021, taking into account the feedback received and they come into effect on the 1<sup>st</sup> November 2021.
- 5.7.** Whilst 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).

#### The public consultation process

- 5.8.** The requirements for public consultation on a Draft SPD are contained within the Town and Country Planning (Local Planning) (England) Regulations 2012. It is highlighted that the requirements have been subject to temporary changes during the Covid-19 pandemic to enable public consultation to take place on planning policy documents without the need to place copies of documents at principal offices or other locations as appropriate. These temporary changes are currently in place until 31<sup>st</sup> December 2021.
- 5.9.** The Council's adopted Statement of Community Involvement (October 2020) reflects the temporary changes introduced to address consultation during the pandemic.

- 5.10.** Public consultation on the initial draft HMO SPD initially took place between the 26<sup>th</sup> October 2020 and 23<sup>rd</sup> December 2020. All representations received were taken into account in preparing the final draft of the HMO SPD and an accompanying Report of Consultation.
- 5.11.** The final draft HMO SPD and Report of Consultation (regarding the initial draft) were then the subject of six weeks public consultation concluding on the 7<sup>th</sup> June 2021. The documents were published on the Council's website and hard copies were placed in Public Libraries across Cheshire East.
- 5.12.** In total 14 representations were received from 11 parties. A summary of the issues raised and the proposed response to these is set out in the Report of Consultation, prepared for the final version of the HMO SPD (Appendix 1 of this report).
- 5.13.** The comments received covered a range of topics and issues. The key matters brought out during the consultation can be summarised as follows:
- There should be no more HMOs in Crewe due to the impact upon local communities/ environment of the area;
  - Issues of litter and car parking associated with HMOs;
  - Poor quality of HMO accommodation;
  - Drafting error highlighted;
  - Advice should be sought from the local authority conservation officer and from the appropriate archaeological staff where any heritage assets may be affected;
  - All HMOs should require planning permission;
  - Additional licencing controls should be introduced for HMOs accommodating less than 5 people;
  - The progress of Article 4 Directions in Cheshire East will be monitored;
  - Consideration should be given to fixing legacy imbalance issues/ scaling back existing HMOs in areas such as Crewe;
  - Exceptions should not be applied as they will not satisfy the broader aims of the SPD;
  - It should be made easier for an HMO to convert back to a dwelling where possible.
- 5.14.** The representations have been considered and the Report of Consultation includes the Council's suggested response including a number of modifications to the document in the light of this feedback. This is set out in the Report of Consultation (Appendix 1) and are incorporated into the final draft of the Framework (Appendix 2).
- 5.15.** These final changes to the HMO SPD are quite limited, as might be expected at this late stage of its development, and include:

- Additional text added to clarify that the policies cited in the document are not an exhaustive list. Proposals that affect heritage assets for example, will be considered in light of relevant development plan policies;
- Additional text added to clarify that the definition of a HMO at Section 3 of the SPD is for planning purposes only;
- Typographical error amended.

**5.16.** In addition, changes have been made to the current status of the Site Allocations and Development Policies Document and the Article 4 Directions in areas of Crewe simply to reflect the latest position.

## **6. Consultation and Engagement**

**6.1.** This is set out earlier in this report and has most recently involved six weeks consultation during April/ June 2021. Following this all comments have been considered and modifications proposed to the SPD so that it is ready for adoption. A Report of Consultation accompanies this report (Appendix 1)

## **7. Implications**

### **7.1. Legal**

**7.1.1.** 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.

**7.1.2.** 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.

**7.1.3.** Regulation 35 (Availability of documents) requires the placing of documents on the Council's website plus in principal offices and other locations as considered appropriate. As set out in paragraph 5.8, this requirement has been amended temporarily through the Local Planning, Development Management Procedure, Listed Buildings etc (England) (Coronavirus) (Amendment) Regulations 2020 to enable

consultations to take place without the need to place documents in Council offices or other locations.

**7.1.4.** 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 are a number of stages in the production of the SPD:

- Publish a draft SPD for public consultation. Comments were invited on the initial draft Houses in Multiple Occupation SPD between the 26th October and 23rd December 2020;
- Consider feedback received and make any changes necessary;
- Publish the final SPD along with a Report of Consultation 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.
- Invite representations on the final SPD and Report of Consultation. Representations on the final draft HMO SPD and accompanying Report of Consultation were invited between the 26th April and 7 June 2021.
- Having considered representations, the SPD may then be adopted (current stage)
- Following adoption, it must be published and made available along with an adoption statement in line with the 2012 Regulations.

**7.1.5.** There is no legal requirement for Supplementary Planning Documents to be accompanied by Sustainability Appraisal, 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 be subject to SEA where it is considered likely that they may have a significant effect on the environment that has not already been assessed within the SEA of the Local Plan. A screening assessment was undertaken for the final draft SPD which determined that a SEA is not required for the SPD.

**7.1.6.** The screening assessment also addressed whether the SPD has a significant adverse effect upon any internationally designated site(s) of nature conservation importance and thereby subject to the requirements of the Habitats Regulations and concludes that the SPD could not have any conceivable effect on any European site and that a full appropriate assessment under the Conservation of Habitats and Species Regulations 2017 is not required.

**7.1.7.** The final proposed changes to the HMO SPD are limited in their extent and do not give rise to the need to revisit the SEA (or Habitats Regulations Assessment) screening.

**7.1.8.** The SPD may affect a person's 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 person's property, or place restrictions on its use, without very good reason. However, there will be no violation of this right if such interference, deprivation or control is carried out lawfully and in the public interest. The Council considers that the introduction of the SPD is in the public interest and warranted.

## **7.2. Finance**

**7.2.1.** The costs relating to the publication of the SPD and consultation report, including printing and staff time, are covered from existing planning budgets.

## **7.3. Policy**

**7.3.1.** The SPD will expand and amplify existing development plan policy. It will also support the corporate plan's priorities of creating thriving and sustainable places by ensuring that development is appropriately controlled, reduces impact on the environment and supports safe and clean neighbourhoods.

## **7.4. Equality**

**7.4.1.** The Council has a duty under Section 149 of the Equalities Act to have due regard to the need to: eliminate discrimination; advance equality of opportunity between persons who share a "relevant protected characteristic" and persons who do not share it; foster good relations between persons who share a "relevant protected characteristic" and persons who do not share it.

**7.4.2.** The SPD provides guidance on the assessment of planning applications involving the change of use of (or extensions to) buildings to HMOs. The SPD is consistent with the Local Plan Strategy which was itself subject to an Equalities Impact Assessment (EqIA) as part of an integrated Sustainability Appraisal.

**7.4.3.** An EqIA screening assessment has been carried out and this has not identified any actual or potential negative impact on people with protected characteristics that would warrant a full assessment being carried out. It is available to read at:

[https://www.cheshireeast.gov.uk/council\\_and\\_democracy/council\\_information/equality-and-diversity/equality\\_analysis.aspx](https://www.cheshireeast.gov.uk/council_and_democracy/council_information/equality-and-diversity/equality_analysis.aspx)

**7.4.4.** The final proposed changes to the HMO SPD are limited in their extent and do not give rise to the need to revisit the EqIA.

## **7.5. Human Resources**

**7.5.1.** There are no implications for human resources

## **7.6. Risk Management**

**7.6.1.** The subject matter of the report does not give rise to the need for any particular risk management measures because the process for the preparation of an SPD is governed by legislative provisions (as set out in the legal section of the report).

**7.6.2.** Adoption of the SPD is subject to a three-month period during which legal challenges can be made.

## **7.7. Rural Communities**

**7.7.1.** 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 an HMO is proposed in a rural area, the SPD will provide additional guidance when considering planning applications.

## **7.8. Children and Young People/Cared for Children**

**7.8.1.** 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

## **7.9. Public Health**

**7.9.1.** 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 well-being and public health.

## **7.10. Climate Change**

**7.10.1.** The HMO SPD draws attention to development plan policies that seek to reduce carbon emissions by incorporating measures to reduce energy use and the provision of electric vehicle charging points where this is feasible.

<b>Access to Information</b>	
Contact Officer:	Claire Coombs, Principal Planning Officer claire.coombs@cheshireeast.gov.uk 01270 860005
Appendices:	Appendix 1: Report of Consultation Appendix 2: Houses in Multiple Occupation Supplementary Planning Document
Background Papers:	<p>Houses in Multiple Occupation Supplementary Planning Document Equalities Impact Assessment:</p> <p><a href="https://www.cheshireeast.gov.uk/council_and_democracy/council_information/equality-and-diversity/equality_analysis.aspx">https://www.cheshireeast.gov.uk/council_and_democracy/council_information/equality-and-diversity/equality_analysis.aspx</a></p> <p>Houses in Multiple Occupation Supplementary Planning Document Strategic Environmental Assessment and Habitats Regulations Assessment Screening</p> <p><a href="http://ee-modernlive:9070/documents/s84259/Appendix%203%20SEA%20HRA%20screening.pdf">http://ee-modernlive:9070/documents/s84259/Appendix%203%20SEA%20HRA%20screening.pdf</a></p> <p>Portfolio Holder Decision and Report to approve the final draft HMO SPD for representations:</p> <p><a href="http://moderngov.cheshireeast.gov.uk/ecMinutes/mglIssueHistoryHome.aspx?Issued=62137&amp;OptionNum=0&amp;">http://moderngov.cheshireeast.gov.uk/ecMinutes/mglIssueHistoryHome.aspx?Issued=62137&amp;OptionNum=0&amp;</a></p> <p>Cabinet Report 3 December 2019:</p> <p><a href="http://moderngov.cheshireeast.gov.uk/ecminutes/documents/s73319/Article%204%20Directions%20-%20report%20final.pdf">http://moderngov.cheshireeast.gov.uk/ecminutes/documents/s73319/Article%204%20Directions%20-%20report%20final.pdf</a></p>