

<b>DECISION-MAKER:</b>	CABINET
<b>SUBJECT:</b>	HOUSES IN MULTIPLE OCCUPATION SUPPLEMENTARY PLANNING DOCUMENT (SPD)
<b>DATE OF DECISION:</b>	12 MARCH 2012
<b>REPORT OF:</b>	CABINET MEMBER FOR ENVIRONMENT AND TRANSPORT
<b>STATEMENT OF CONFIDENTIALITY</b>	
Not applicable	

### **BRIEF SUMMARY**

The Houses in Multiple Occupation (HMO) Supplementary Planning Document (SPD) has been prepared to provide guidance for determining planning applications for HMOs. This guidance will come into operation once the Article 4(1) direction to remove the permitted development rights for HMOs city wide becomes effective on 23<sup>rd</sup> March 2012. The SPD will provide more detail on how policies H 4 of the Local Plan Review and CS 16 of the Core Strategy will be applied when assessing planning applications.

The report is seeking adoption of the SPD subject to any changes Members wish to make as a result of the comments received through the formal consultation process that took place between 22<sup>nd</sup> December 2011 and 1<sup>st</sup> February 2012.

### **RECOMMENDATIONS:**

- (i) To consider the comments received during the consultation exercise undertaken on the Houses in Multiple Occupation Supplementary Planning Document as set out in the Schedule of Comments attached as Appendix 1.
- (ii) To adopt the Houses in Multiple Occupation Supplementary Planning Document attached as Appendix 2 on 23<sup>rd</sup> March 2012.
- (iii) To delegate authority to the Senior Manager, Planning Transport and Sustainability to make minor editing changes to the document prior to publication.

### **REASONS FOR REPORT RECOMMENDATIONS**

1. The final version of the SPD needs to be adopted in order that it provides guidance when determining planning applications for HMOs when the Article 4 direction becomes effective on 23<sup>rd</sup> March 2012.
2. The statutory processes for preparing SPDs require the council to consider the responses made during the formal consultation period and make amendments to the SPD if appropriate.

### **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

3. Not approve and adopt the SPD. This would mean that there would be no detailed guidance available for officers, developers and the general public on how planning applications for HMOs will be determined when the Article 4 direction becomes operative on 23<sup>rd</sup> March 2012.

## **DETAIL (Including consultation carried out)**

4. On 14th March 2011 Cabinet resolved to make an Article 4(1) direction to remove the permitted development rights for HMOs city wide. The introduction of this Article 4(1) direction was confirmed at Cabinet on 24<sup>th</sup> October 2011. When this comes into effect on 23<sup>rd</sup> March 2012, planning permission will be required to convert a dwelling from C3 (dwelling house) to C4 (HMO). This will enable the Council to control the location (and thus concentration) of HMOs through the planning system.
5. A draft HMO SPD was published for formal public consultation for 6 weeks from 22<sup>nd</sup> December 2011 to 1<sup>st</sup> February 2012. The guidance will apply to C4 HMOs and sui generis HMOs i.e. HMOs with 7 or more occupiers. It expands and provides more detail to policies H 4 from the Local Plan Review and CS 16 from the Core Strategy.
6. The draft SPD proposed that a 10% threshold would apply in the northern wards of Bassett, Portswood and Swaythling and a 20% threshold across the rest of the city. A radius of 40 metres from the application property will be used to determine the area of impact within which the threshold will be applied.
7. The SPD also provides guidance on extensions to existing HMOs, flipping between C3 and C4 uses and amenity standards. In addition it deals with parking standards for HMOs. The SPD proposes that specific parking standards are included that relate to the number of bedrooms per HMO household.
8. The draft SPD has been informed by earlier informal consultation. A Working Party meeting was held with representatives from residents' associations, landlords and the University of Southampton to discuss the options for guidance in the SPD. The content of the draft SPD was informed by the Working Party's discussion.
9. 115 representations have been received (8 after the closing date) mainly from residents, residents associations, landlords and landlords associations. There is support for the document particularly from residents in those areas where there are concentrations of HMOs. However landlords generally consider that there should be no controls such as thresholds over HMOs. The comments have been summarised and are attached at Appendix 1. In addition a list of frequently asked questions and the council's response is attached as Appendix 3.
10. The comments are wide-ranging but the main points are considered below.

### **Status of the document**

Comments: The landlords consider that the guidance set out in the document is of such significance that it should be dealt with by way of a statutory development plan document (DPD) rather than an SPD. In this way it could be independently examined. The respondents have referred to the recommendations made by planning inspectors to Portsmouth City Council's and Manchester City Council's Core Strategies HMO policies and guidance.

Response: It is considered that the draft SPD has been prepared in accordance with paragraph 6.1 of PPS12 'Creating strong, safe and

prosperous communities through Local Spatial Planning' and provides greater detail on Core Strategy policy CS16 and saved policy H4 from the Local Plan Review. The question of whether the content should be contained in a DPD or SPD is complex, as reflected in the different approaches taken by the inspectors examining the Portsmouth Core Strategy and the Manchester Core Strategy. The inspector for the Portsmouth Core Strategy (which is now adopted) supports our approach whereas the inspector for the Manchester Core Strategy recommended that, in that case, the detail should be contained in a DPD. It is our view that the SPD provides guidance on the application of the detailed HMO policies provided in the Core Strategy and Local Plan Review and that this is a defensible and legitimate approach

An advantage of producing a SPD rather than a statutory DPD is that an SPD can be more easily reviewed and amended if it is found that circumstances have changed and that the guidance needs to be revised.

#### 11. **Threshold**

Comments: The comments are varied.

- Many residents support the 10% threshold for the wards of Bassett, Portswood and Swaythling (northern wards)
- Others query the justification for the percentage in the northern wards differing from the rest of the city.
- Some support for Bevois ward to also have a 10% threshold
- Some suggest a figure of 12 to 15 % across the city; some landlords suggest 50%
- Some query the use of a ward basis for the threshold and for grouping wards together.
- Some query the evidence for setting the thresholds at the levels proposed.

Response: A two tier threshold was proposed in the draft SPD of 10% in the northern wards and 20% elsewhere in the city. These thresholds are designed to provide a mix of housing types in each area and to reduce to a minimum any further loss of family homes across the city, whilst taking account of the character and amenity of each area. The northern wards and the central wards of the city (Bargate, Bevois and Freemantle) are the areas with the highest numbers of HMOs. The lower threshold in the northern wards will safeguard the character and balance of the communities in these wards from the level of HMO concentration which affects the central wards and aims to prevent the further loss of family homes in these areas. The overall impact of additional HMOs is somewhat reduced in the central wards where the range of properties is greater, the density higher and the population is more transient. The threshold of 20% in these areas (and elsewhere across the city) will serve to provide a mix of housing types in each area.

It is considered that a threshold lower than 20% should not be applied across the rest of the city as this will not allow for any further growth in HMOs in the city. Currently some 9.3% of the properties in the city are HMOs. There will continue to be a demand for further HMOs due to the recent changes in Local Housing Allowance affecting single under 35s and the impact of the current

economic climate affecting the cost of property, particularly for young single people although it is acknowledged that future demand for student accommodation is uncertain. Conversely it is considered that a threshold as high as 50% is not likely to prevent more properties being converted into HMOs in the existing areas and streets of the city where there are already high concentrations of HMOs. Taking into account the need for other household types, such as families, it is considered that this threshold would not sustain a balanced and mixed community.

It is therefore proposed to retain the 10% threshold for the northern wards and 20% for the rest of the city.

With regard to the queries about the evidence it is acknowledged in the draft SPD that there is no clear advice about how to identify the tipping point when a concentration of HMOs in a local area begins to adversely change the character and balance of the community. However it is generally acknowledged that concentrations of HMOs can have an adverse impact on an area. With regard to respondents' comments that the wards should not be grouped together as some parts of the areas are likely to have more HMOs than others, the council does not have up to date evidence on a ward basis.

12. **Radius**

There is general support for this approach which is welcomed.

13. **Car Parking**

Comments: Residents consider that the parking standards should be minimum provision rather than maximum provision.

Response: The car parking standards accord with the general approach in the adopted Parking Standards SPD which refers to maximum parking standards. Maximum rather than minimum standards provide more flexibility to provide the right amount of parking for a development based on individual circumstances and maximum rather than minimum standards apply across the city to many forms of development. It would not be reasonable to have a blanket minimum in the light of car ownership levels in HMOs and the range and type of properties, many of which are in highly accessible locations.

14. **Other powers**

Comments: Many respondents consider that the council should be considering greater use of other powers to deal with noise, litter, parking and so on. There have been suggestions that there should be additional licensing of HMOs.

Response: The Council has established a virtual HMO team consisting of all services that are involved with regulating HMOs in Southampton, including Planning, Housing, Environmental Health, Waste, Community Safety, Benefits and City Patrol. The team is working to improve the flow of information between teams to ensure a joined-up, cohesive approach to tackling resident and community concerns. This will also help to ensure a more targeted approach, in particular to environmental issues. The initial work programme includes developing a corporate HMO protocol, which will clearly set out legal powers and accountabilities; sharing Council data on HMOs; and cascading information to officers working in all teams so that they are aware of the support available to robustly tackle issues. It is planned to widen the virtual

team to include external agencies, such as the Universities and the Fire and Rescue Service

15. Other comments relate to technical matters set out in the document. It is proposed that a number of detailed changes be made to the SPD and these are set out in the summary of comments in Appendix 1.
16. In November 2011 the National Landlords Association and the Residential Landlords Association applied to the Secretary of State for Communities and Local Government for the revocation of the Article 4 Direction made by the city council and 18 other local authorities. The Council is currently waiting to hear the outcome of this. In the meantime it is recommended that the Council proceed with the approval and adoption of the SPD.

## **RESOURCE IMPLICATIONS**

### **Capital/Revenue**

17. There are no capital implications.
18. Producing the SPD will be funded from the existing budget for the production of the Local Development Framework within the Environment and Transport Portfolio.

### **Property/Other**

19. There are no property implications for the Council.

## **LEGAL IMPLICATIONS**

### **Statutory power to undertake proposals in the report:**

20. The proposals in this report are consistent with the Council's powers and responsibilities under the Town and Country Planning (Local Development) (England) Regulations 2004 as amended June 2008 and April 2009, to make Supplementary Planning Documents in accordance with the regulations.

### **Other Legal Implications:**

21. The Council's strategic planning functions must be exercised having regard to S.17 Crime & Disorder Act 1998 (exercise of function having regards to the need for the reduction of crime & disorder) and the provisions of the Human Rights Act 1998. In so far as any planning policy may amount to a fetter or restriction on the private use or development of land, it is considered that the proposed SPD is necessary and proportionate having regard to the need to control development for the benefit and needs of the wider community.
22. An Equalities Impact Assessment was prepared for the Core Strategy. This SPD provides further guidance on Policy CS 16 of the Core Strategy. The Equalities Impact Assessment found that policy CS 16 had a positive impact on disability, race, gender, faith and age.
23. The Integrated Impact Assessment identified three categories where there may be a negative impact. With regards to age the guidance may lead to a reduction in the supply of HMOs in some parts of the city thus affecting housing opportunities for young people, both employed people and students in some localities. However, the University of Southampton is looking for an extra 1000 residential spaces in the city so this is likely to reduce the demand for HMOs for students. With regards to the poverty and deprivation

category currently there is no evidence that the guidance in the SPD will result in fewer HMOs coming forward in the future in the city as a whole or that this will impact negatively on the housing choices of single people under 35 years who are in receipt of Local Housing Allowance. With regards to the contribution to the local economy category it is uncertain whether, if fewer new HMOs come forward in some parts of the city, this will significantly affect the range of property choices for students and young, single people seeking employment. The distribution of HMO accommodation is likely to be affected and this could mean longer journeys to work in some cases or local competition for some roles being reduced. Concentrations of HMOs can have an adverse impact on some businesses but positive impacts on others. The SPD will be monitored to assess what impact the guidance is having on the above matters.

**POLICY FRAMEWORK IMPLICATIONS**

- 24. This document provides further guidance on how policies H4 from the Local Plan and CS16 from the Core Strategy will be applied. The Local Plan Review and the Core Strategy comprise the statutory development plan for the city.

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**KEY DECISION?** Yes

<b>WARDS/COMMUNITIES AFFECTED:</b>	All
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## SUPPORTING DOCUMENTATION

**Non-confidential appendices are in the Members' Rooms and can be accessed on-line**

### **Appendices**

1.	Schedule of comments received following formal consultation.
2.	Houses in Multiple Occupation Supplementary Planning Document
3.	Council's response to Frequently Asked Questions raised during consultation on the HMO SPD

### **Documents In Members' Rooms**

1.	None
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### **Integrated Impact Assessment**

Do the implications/subject of the report require an Integrated Impact Assessment (IIA) to be carried out.	Yes
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### **Other Background Documents**

**Integrated Impact Assessment and Other Background documents available for inspection at:**

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	Representations on the draft HMO SPD following public consultation	Planning Policy, Planning, Transport & Sustainability Division
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