

<b>Report to:</b>	<b>Scrutiny Committee</b>
<b>Date:</b>	<b>10 February 2025</b>
<b>Title:</b>	<b>Houses in Multiple Occupation Supplementary Planning Document (HMO SPD)</b>
<b>Report of:</b>	<b>Robert Cottrill, Chief Executive</b>
<b>Cabinet member:</b>	<b>Councillor Colin Swansborough, Cabinet member for Enterprise, Community Spaces and Planning</b>
<b>Ward(s):</b>	<b>All</b>
<b>Purpose of report:</b>	<b>To seek Cabinet approval to publish the Houses in Multiple Occupation Supplementary Planning Document (HMO SPD) for public consultation</b>
<b>Decision type:</b>	<b>Key</b>
<b>Officer recommendation(s):</b>	<p>(1) That Cabinet approve the publication of the Houses in Multiple Occupation Supplementary Planning Document (HMO SPD) for public consultation between Friday 28<sup>th</sup> February and Friday 25<sup>th</sup> April 2025.</p> <p>(2) To delegate authority to the Chief Executive, in consultation with the Cabinet Member for Enterprise, Community Spaces and Planning, to make changes to the SPD prior to publication.</p>
<b>Reasons for recommendations:</b>	<p>(1) To meet the requirements of Regulations 12 and 13 of the Town &amp; Country Planning (Local Planning) (England) Regulations 2012 (as amended) for representations on supplementary planning documents</p> <p>(2) To ensure that any necessary amendments can be made or errors can be corrected prior to the HMO SPD being published for consultation</p>
<b>Recommendations to the Scrutiny Committee</b>	<p>1) Note the Recommendations in the Houses in Multiple Occupation Supplementary Planning Document (HMO SPD) report; and</p> <p>2) Respond to the Cabinet with any views it wishes to be considered.</p>

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## **1 Introduction**

- 1.1 At its meeting on 17<sup>th</sup> July 2024, Cabinet agreed a series of interventions to address concerns relating to the proliferation and impact of Houses in Multiple Occupation (HMOs) in the town. This included the introduction of new planning policy to provide more extensive criteria for applications for new HMOs to be assessed against, through the preparation of an HMO Development Plan Document (DPD). The HMO DPD was to be progressed whilst the preparation of the new local plan was on hold, and a draft HMO DPD was subject to public consultation between 2<sup>nd</sup> August and 27<sup>th</sup> September 2024.
- 1.2 A new Local Development Scheme (LDS), which is being presented to Cabinet and Full Council for approval, seeks to accelerate the timetable for the preparation of the new Local Plan, and this will need to be prioritised over the HMO DPD if the Government deadline for submission of local plans is to be achieved. Therefore, it is proposed that the preparation of the HMO DPD is discontinued, and new planning policies relating to HMOs are incorporated into the new Local Plan.
- 1.3 In the meantime, in order to address planning-related HMO issues in the short term, it is proposed that the Council prepare an HMO Supplementary Planning Document (SPD) instead, to provide guidance on how existing adopted planning policy should be applied to address the current issues relating to HMOs whilst the new Local Plan is being prepared.
- 1.4 The Council must undertake consultation on the HMO SPD before it can be adopted. Cabinet is requested to approve the publication of the HMO SPD (Appendix 1) so that a representation period for public consultation can be undertaken.

## **2 Context**

- 2.1 Houses in Multiple Occupation (HMOs) are legally defined in the Housing Act 2004 (under sections 254 to 259). A House in Multiple Occupation is generally considered to be a property that is occupied as a main residence by at least three people who are not part of the same household but share facilities like a kitchen and bathroom, where the building does not entirely consist of self-

contained flats (although it may include some self-contained flats), and rents are payable (or some other form of consideration) for at least one person's occupation. However, there are legal exemptions for certain buildings that meet the definition for an HMO under the Housing Act 2004.

- 2.2 HMOs form an important part of the housing mix within an area as they increase the range and mix of accommodation, especially for people whose housing options are limited, such as young professionals, students and people on low incomes who are unable to afford or access their own self-contained accommodation. Demand for this type of smaller and cheaper accommodation is likely to be impacted by current circumstances in relation to rises in the cost of living and pressure on wages and benefits.
- 2.3 However, HMOs have the potential to negatively impact on communities in terms of the standard of living environment for local residents and businesses, particularly where there is a high concentration of HMOs in a specific area. In addition, it is acknowledged that there are contributory factors associated with a high turnover of HMO residents; the concentration of HMO residents facing economic hardship (amongst a wider community that faces hardship also); and the higher proportion of HMO residents living with mental health/complex needs. Together, these factors can result in detrimental effects on the character of local communities and neighbourhoods, and perceptions around increased levels of anti-social behaviour or petty crime. Additionally, unkempt properties that are not properly maintained impact on the amenity of an area and can adversely impact community cohesion.
- 2.4 Evidence to justify interventions on HMOs has been provided by the Eastbourne HMO Study 2024. The study found that there is clear evidence of the valuable role that HMOs provide in the housing market by providing low-cost accommodation that people on lower incomes, key workers, and vulnerable groups rely on, and there could be significant adverse consequences from overly restricting the current provision or future supply of HMOs. Therefore, the study suggests that interventions that mitigate impacts and improve standards for residents, rather than aiming primarily to control HMO numbers, may be more prudent.
- 2.5 The Study does identify that there are impacts caused by HMOs. On the whole, it is considered that these impacts arise not from individual HMO properties themselves (with some notable exceptions), but from their concentration. The most significant impacts identified by the study are the loss of relatively scarce family housing through conversion of existing single-household housing to HMO, and the impact on occupants and communities from anti-social behaviour in areas of high concentration. Secondary impacts with less conclusive evidence

relate to condition of properties and standards for occupants, the impact on parking and waste collection amenities, and impacts on the wider economy.

### **3 Local Development Scheme**

- 3.1 The Local Development Scheme (LDS) is the Council's timetable for the production of planning documents. It outlines the planning documents that the local planning authority intend to produce with the key dates and milestones for progress.
- 3.2 In December 2024, Government published a Written Ministerial Statement (WMS) that confirmed that local planning authorities are expected to rise to the challenge to accelerate plan-making, and confirmed that Government will use the full range of ministerial intervention powers at their disposal, including taking over an authority's plan making directly, if that does not happen. As part of this, Government is requiring all local planning authorities to produce an updated LDS by 6<sup>th</sup> March 2025, and to inform Government of the expected dates for milestones for the preparation of the local plan.
- 3.3 A revised LDS, which subject to a separate Cabinet decision, proposes an accelerated timetable for the preparation of the Local Plan. This is an ambitious timetable as it is required to meet the Government expectation that local plans will be submitted for examination under the current plan-making system by December 2026.
- 3.4 Previously, the new preparation of the new Local Plan was on hold due to uncertainties around the proposed introduction of a new plan-making system. Whilst the Local Plan was on hold, an HMO Development Plan Document (DPD) was being progressed, and an initial consultation on the 'Regulation 18' draft HMO DPD took place in summer 2024.
- 3.5 The resource implications of progressing the HMO DPD through the remaining statutory stages of preparation, particularly examination, means that it would not be possible to continue the preparation of the HMO DPD at the same time as accelerating the preparation of the Local Plan. In light of the Government requirements of the WMS and the significant wider benefits associated with the adoption of a new Local Plan, it is being recommended to Cabinet in the LDS report that the Local Plan be prioritised and as a result, the HMO DPD be discontinued. Instead of the HMO DPD, it is proposed that a Supplementary Planning Document (SPD) relating to HMOs be prepared to help address planning-related issues associated with HMOs whilst the new Local Plan is being prepared.

3.6 The policies that were being proposed through the HMO DPD will now be incorporated into the preparation of the new Local Plan, which is expected to be adopted by the end of 2027.

#### **4 Supplementary Planning Document**

4.1 A Supplementary Planning Document (SPD) is a planning policy document that builds upon and provides more detailed advice or guidance on how specific policies in a Local Plan should be applied.

4.2 An SPD must be based on existing planning policy within an adopted local plan or Development Plan Document (DPD). SPDs must be consistent with national planning policy, must undergo consultation and must be in conformity with policies contained within the Local Plan.

4.3 SPDs cannot be used to introduce new policies – any new policies need to be within a DPD, which would be subject to an extensive statutory process including Examination in Public and being found sound by a Planning Inspector. As SPDs do not contain planning policy, they are not part of the statutory development plan.

4.4 By contrast, a Development Plan Document (DPD) is a local development document that has development plan status and contains the local planning authority's planning policies for the determination of planning applications.

4.5 A DPD must be prepared in line with the process set out in The Planning and Compulsory Purchase Act 2004 (as amended) and The Town and Country Planning (Local Planning) (England) Regulations 2012. A DPD can only be adopted by the Council if it is found to be legally compliant and sound by a Planning Inspector appointed by the Secretary of State to conduct a public examination.

4.6 Once a DPD has been adopted by the local planning authority, it becomes part of the development plan. Planning law<sup>1</sup> requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

4.7 An SPD is not part of the statutory development plan, and therefore it is the existing adopted policies within the development plan that are the starting point for determining planning application. However, an SPD is a material consideration in the determination of planning applications, but it would be

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<sup>1</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990

expected to carry less weight the decision-making process than adopted policy would.

- 4.8 Although an SPD cannot introduce new policy, it can be used to expand on existing adopted planning policy and it not required to go through examination or be found 'sound' by a Planning Inspector, which means that the process of preparing an SPD is quicker and less resource intensive.

## **5 Previous Consultation on HMO DPD**

- 5.1 On 2nd August 2024, the draft HMO DPD was published for an eight-week public consultation period under Regulation 18 of the Town & Country Planning (Local Planning) (England) Regulation 2012 (as amended), in accordance with the Council's adopted Statement of Community Involvement.
- 5.2 A total of 44 representations were received on the HMO DPD Regulation 18 consultation. Of the 44 responses, 33 were received from members of the public, whilst six came from local groups/organisations, three came from national groups/organisations, and two came from other local authorities.
- 5.3 As a prompt for responding, the consultation set out five questions for consultees to consider. The 44 representations raised 205 individual issues, which have been analysed and considered in terms of how they can be addressed.
- 5.4 There were a number of comments of support for policies within the HMO DPD, in addition to requests to give issues further consideration.
- 5.5 The Environment Agency identified that HMOs have the potential to place more vulnerable members of society into areas of flood risk, particularly as sleeping accommodation is more likely to be provided on ground floors of buildings. Therefore, it was requested that flood risk be given greater consideration within the DPD. Sussex Police also requested that greater consideration should be given to crime prevention measures.
- 5.6 A large number of the comments related to housing, licensing and other matters that cannot be addressed through planning policy. Where relevant, these have been passed to other relevant departments within the Council.
- 5.7 There was also a representation made by a neighbouring authority raising concern that the HMO DPD had been prioritised over the preparation of a new Local Plan, particularly in the context of national policy that favour the preparation of single, comprehensive plans.

5.8 The full summary of the main issues raised in the consultation, and how they have been addressed is provided in the Consultation Statement.

## **6 Houses in Multiple Occupation Supplementary Planning Document**

6.1 There are a number of policies within the Development Plan for Eastbourne that can be used as part of the assessment and determination of planning applications for HMOs. These include:

- Policy HO9: Conversions and Changes of Use from the Saved policies of the Eastbourne Borough Plan 2001-2011 (adopted 2003)
- Policy HO14: Houses in Multiple Occupation from the Saved policies of the Eastbourne Borough Plan 2001-2011 (adopted 2003)
- Policy HO20: Residential Amenity from the Saved policies of the Eastbourne Borough Plan 2001-2011 (adopted 2003)
- Policy TO1: Tourist Accommodation Area from the Saved policies of the Eastbourne Borough Plan 2001-2011 (adopted 2003)
- Policy B2: Creating Sustainable Neighbourhoods from the Eastbourne Core Strategy Local Plan 2006-2027 (adopted 2013)

6.2 The HMO SPD (Appendix 1) has been prepared to provide guidance on how these policies should be applied in the determination of planning applications relating to HMOs. This takes into account representations and issues raised through the previous consultation on the HMO DPD.

6.3 The SPD sets out that in assessing residential amenity for a HMO proposal, consideration should be given to the cumulative impacts of concentration of HMOs on residential amenity. The SPD identifies how an unacceptable concentration of HMOs will be assessed, including:

- The percentage of residential properties within a 100m radius of the application site that are HMOs, with this not exceeding 10%
- Ensuring that applications would not result in a residential property being 'sandwiched' between HMOs
- Preventing instances where there is a continuous frontage of three or more HMOs

6.4 Consultation responses highlighted issues with how HMOs are identified within the application of the assessment of concentration. The SPD confirms that properties will only be considered as HMOs within the assessment of concentration where there is existing evidence that this is the case and sets out how existing HMOs will be identified in assessing concentration. This includes any licensed HMOs on the HMO Register, any property with extant planning

permission for HMO (whether that has been implemented or not), and any properties where a certificate of lawful use has been issued to confirm its lawful use as an HMO. As a result of consultation, HMOs where enforcement action has or is being taken will also be included in the list.

- 6.5 In the context of assessing residential amenity, the SPD also confirms that proposals for HMOs would need to submit evidence to demonstrate that the proposal would not cause unacceptable noise and disturbance to neighbouring properties, the layout would not result in living rooms, kitchens or bathrooms being adjacent to bedrooms in neighbouring properties, and that community safety and crime prevention measures have been incorporated into the development.
- 6.6 The SPD also requires that applications will submit evidence to demonstrate that the HMO will provide an appropriate standard of accommodation in order to meet residential amenity requirements in respect on the HMO occupants. This includes evidence of how security and crime prevention measures have been incorporated into the development, in response to consultation responses from Sussex Police.
- 6.7 In order to address visual and environment amenity considerations, the SPD expects evidence to be submitted with an application to show that sufficient space for waste / recycling containers appropriate to the number of occupants, has been made in a suitable enclosure area within the curtilage of the property, and that any external alterations or physical extensions to HMOs are high-quality design that responds to the character of the neighbourhood.
- 6.8 The HMO SPD also confirms that existing adopted policy continues to restrict the creation of new HMOs within the designated Tourist Accommodation Area along the seafront.

## **7 Future Consultation**

- 7.1 If approved by Cabinet, the HMO SPD will be subject to an 8-week representation period between Friday 28th February and Friday 25th April 2025, in accordance with the Council's adopted Statement of Community Involvement.
- 7.2 The consultation would be hosted via the Council's online Consultation Portal that allows comments to be made directly via the website. All statutory bodies and individuals and organisations who have asked to be informed of the progress of the Eastbourne Local Plan will be notified directly about the consultation, and it will be further publicised on the Council's website, and through press releases and social media.



- 7.3 Following this consultation period, representations will be considered, and a final SPD will be reported to Cabinet and Full Council for adoption, which is anticipated for July 2025.

## **8 Corporate plan and council policies**

- 8.1 The Corporate Plan 2024-2028 identifies that the cost of living crisis has taken its toll on communities, and the Council is committed to continuing to play its part to support residents most badly affected and ensure adequate support networks are in place. The Corporate Plan also recognises that many people in the town are finding it hard to find suitable accommodation for their needs, and the Council will continue to help support those who are at risk of homelessness or in housing need, along with looking to enable and develop new housing in the town. The HMO SPD recognises the important role that HMOs play in the housing market, and seeks to apply adopted policies in a way that would support additional provision, but only where the impacts of HMOs can be mitigated.
- 8.2 The Housing Strategy 2020-2024 recognises that the challenges for Eastbourne include rising housing costs, a changing demographic, the expansion of the private rented sector, tackling poverty and inequality, and homelessness. It recognises a priority to shape a thriving, high standard, private rented sector by putting in place measures that promote a good quality private rented housing supply, encourage good quality management across the sector and balance the interests of landlords and tenants.
- 8.3 In relation to the priority of promoting homes that sustain health and wellbeing, the strategy recognises that where the basic 'foundations' of a healthy home are not in place and households find themselves living in poor quality homes, experience precarious housing circumstance or have no home at all, then wellbeing, physical and mental health all suffer. The HMO SPD seeks to apply adopted policies in a way that would ensure that new HMOs meet minimum standards that would ensure a decent standard of accommodation.

## **9 Alternative options considered**

- 9.1 The alternative option would be to not approve the HMO SPD for consultation. This would mean that there would be no up-to-date guidance provided on how existing policies should be used in the determination of planning applications relating to HMOs. This would limit opportunities to address current issues associated with HMOs through the planning process ahead of the adoption of a new Local Plan in 2027.

## **10 Financial appraisal**

- 10.1 There are no financial implications to the Council as a direct result of this report. The cost of the consultation and publication of the HMO SPD will be met from within the service budget.

## **11 Legal implications**

- 11.1 The HMO SPD has been prepared in order to comply with Regulations 12 and 13 of the Town & Country Planning (Local Planning) (England) Regulations 2012, and with regard to the requirements of the National Planning Policy Framework.
- 11.2 Town & Country Planning (Local Planning) (England) Regulations 2012 prescribes the legal process that must be carried out when the Council is seeking to create a Supplementary Planning Document (SPD). As part of the public consultation, the regulations require that the Council prepares a statement, to be made available as part of the consultation, that sets out:
- (i) the persons the local planning authority consulted when preparing the supplementary planning document;
  - (ii) a summary of the main issues raised by those persons; and
  - (iii) how those issues have been addressed in the supplementary planning document.

Legal implications checked 23.01.25 JCS

## **12 Risk management implications**

- 12.1 The risk of not approving the HMO SPD for consultation at this time is that there would be no guidance on how existing adopted planning policies could be used in the determination of planning application to help address the issues associated with HMOs in Eastbourne.

## **13 Equality analysis**

- 13.1 An Equality & Fairness Analysis has been undertaken on the HMO SPD, which expands on a previous Equalities & Fairness Analysis that was prepared for the HMO DPD. This has concluded that the HMO SPD would have an overall positive impact, as the HMO SPD would support opportunities for increasing housing options for people on lower incomes, key workers, and vulnerable groups through the provision of new HMOs, and ensuring that new HMOs provide a decent standard of living condition. However, the HMO SPD will also apply adopted policy in a way that would mean that HMOs only come forward

where the impacts associated with HMOs can be appropriately mitigated and the impacts on neighbourhoods and local communities minimised.

## **14 Environmental sustainability implications**

14.1 The HMO Study identifies that the average HMO in Eastbourne tends to have a lower energy performance rating than the average non-HMO. The HMO SPD will seek to apply adopted planning policies to ensure that conversions or changes of use to HMO incorporate measures to reduce carbon emissions and improve energy efficiency. In addition, the HMO SPD will seek to apply adopted planning policies in a way that restricts change of use or conversion to HMO that could otherwise result in the housing stock being retained as single-family housing and or converted into self-contained flats where there is greater potential for insulation and renewable energy sources to be secured.

## **15 Appendices**

- Appendix 1 – Eastbourne Houses in Multiple Occupation Supplementary Planning Document – February 2025

## **16 Background papers**

The background papers used in compiling this report were as follows:

- [Housing Act 2004 \(as amended\)](#)
- [Planning & Compulsory Purchase Act 2004 \(as amended\)](#)
- [Town and Country Planning \(Local Planning\) \(England\) Regulations 2012 \(as amended\)](#)
- [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015 \(as amended\)](#)
- [National Planning Policy Framework \(2023\)](#)
- [Eastbourne Borough Plan 2001-2011 \(Adopted 2003\)](#)
- [Eastbourne Core Strategy 2006-2027 \(Adopted 2013\)](#)
- [Eastbourne Borough Council HMO Register](#)
- [AECOM, Eastbourne HMO Study \(2024\) – Main Report](#)
- [AECOM, Eastbourne HMO Study \(2024\) – Appendices](#)