



## Report of the Head of Planning and City Regeneration

Planning Committee – 3 December 2019

# Supplementary Planning Guidance: Houses in Multiple Occupation and Purpose Built Student Accommodation

<b>Purpose:</b>	To inform Members of representations received during the public consultation on the draft version of the SPG; highlight officer responses to these and identify proposed consequential amendments to the document; and seek a resolution to formally adopt the final version.
<b>Policy Framework:</b>	Planning and Compulsory Purchase Act 2004; City & County of Swansea Local Development Plan (Adopted February 2019); Well-being of Future Generations (Wales) Act 2015; Planning (Wales) Act 2015; Planning Policy Wales (2018) and related Guidance; Use Classes Amendment Order 2016.
<b>Consultation:</b>	Legal, Finance, Access to Services
<b>Recommendation(s):</b>	It is recommended that:  a) The consultation representations, and the responses of the Planning Authority to these (set out at Appendix A of this report), be noted;  b) The final version of the SPG (attached at Appendix B of this report) be approved and adopted.
<b>Report Author:</b>	Tom Evans
<b>Finance Officer:</b>	Aimee Dyer
<b>Legal Officer:</b>	Jonathan Wills/Debbie Smith
<b>Access to Services:</b>	Rhian Millar

## 1.0 Introduction

- 1.1 In September 2019, the Planning Committee approved a draft version of Supplementary Planning Guidance (SPG) relating to Houses in Multiple Occupation (HMOs) and Purpose Built Student Accommodation (PBSA) for the purpose of public consultation. A consultation process was duly undertaken and, following its conclusion, the draft document was amended having regard to comments received. The final version has now been produced for Members to formally endorse as planning guidance to supplement the Swansea Local Development Plan (LDP) for use in planning decision making.
- 1.2 This Committee Report briefly summarises the background and context to the SPG's preparation. It describes the outcome of the consultation process, and summarises the range of comments received and the response of the Planning Authority to these comments. It also highlights the specific amendments that have been made to the draft version to further clarify and refine the SPG.
- 1.3 A Public Consultation Report has been produced to set out the full extent of public consultation comments received, the responses of the Planning Authority, and the amendments that have been made to the document. The Consultation Report is published separately and is attached to this Committee Report at Appendix A. The final, fully amended version of the SPG is attached to this Committee Report at Appendix B.

## 2.0 Background and Context

- 2.1 The Swansea LDP (available at [www.swansea.gov.uk/ldp](http://www.swansea.gov.uk/ldp)) was adopted in February 2019 as the Council's statutory development plan. The LDP highlights a wide range of SPG scheduled to be produced to augment LDP policies, which will provide definitions and working examples to assist the interpretation of policy. One of the SPGs identified in the LDP is **Houses in Multiple Occupation (HMOs) and Purpose Built Student Accommodation (PBSA)**, hereafter referred to as 'the SPG'.
- 2.2 The SPG is primarily supplemental to the following policies in the adopted Swansea LDP:
  - H9 'Houses in Multiple Occupation'; and
  - H11 'Purpose Built Student Accommodation'
- 2.3 The SPG also provides supporting guidance to the following adopted policies:
  - Policy PS 2 'Placemaking and Place Management'
  - Policy T2 'Active Travel'
  - Policy T6 'Parking'
  - Policy SI 8 'Community Safety'
  - Policy RP 10 'Sustainable Waste Management for New Development'
- 2.4 The SPG has been formulated having regard to Planning Policy Wales (PPW, 2018), which provides the national policy context for making planning decisions. PPW states that planning decisions must seek to promote sustainable development and support the well-being of people and communities across Wales. It states this should be done by addressing 'well-being goals', one of which is to foster cohesive communities, emphasising the promotion of

accessible forms of development and appropriate combinations of land uses. PPW states that good placemaking should consider the context, function and relationships between a development site and its surroundings, including considering: the amenity impact of development on neighbouring properties and people; the balance and distribution of land uses and densities; and the need to create places where people want to be and can happily interact with others.

### ***HMO Context and Legislation***

- 2.5 Under national legislation, the requirement to obtain planning permission covers not only new building work but also the change of use of buildings. Depending on their sizes, HMOs are categorised under the following Use Classes:
- (i) Small HMOs - 'C4' Use Class: shared dwelling houses that can accommodate between 3-6 unrelated persons who share basic amenities; and
  - (ii) Large HMOs - 'Unique' Use Class (formerly known as Sui Generis Use): shared dwelling houses with more than 6 unrelated persons sharing basic amenities.
- 2.6 Following changes made to the Use Class Order in Wales, changing the use of a property to either a 'C4' or 'Unique Use' HMO now requires planning permission. This includes the intensification of an existing C4 HMO to an Unique Use HMO, and any proposal to increase the number of occupants that are consented to live in an Unique Use HMO.
- 2.7 Swansea LDP Policy H 9 'Houses in Multiple Occupation' provides a detailed, evidenced based policy that will be used to manage the anticipated future demand for new HMO development over the Plan period. A key policy aim is to control the future provision of HMOs in a sustainable manner, thereby helping to foster cohesive communities and avoid instances of over-concentration that can be to the detriment of residential amenity and community balance. Any proposal for the conversion of a dwelling or non-residential property to a HMO, or the intensification of use of a C4 property to an Unique Use HMO, will be determined against Policy H 9. The key requirements of Policy H 9 are that:
- A 2-tier 'maximum threshold' approach will be applied to defined geographical areas, above which further HMO concentrations in those areas will be deemed harmful based on a calculation of the proportion of HMOs within a 50m radius of a proposal
  - 'No sandwiching' of Class C3 residential properties between HMOs will be permitted
  - Specific protection will be afforded to 'small streets' that are characteristic of certain residential areas of Swansea
  - Criteria will be applied to ensure proposed HMOs are suitable for their intended use and will not result in unacceptable adverse impacts caused by noise and general disturbance
  - Sufficient flexibility will be applied in the case of exceptional circumstances, or overriding material considerations, where these demonstrably outweigh concerns regarding harmful concentration or intensification.

### ***PBSA Context and Policy***

- 2.8 PBSA developments have increasingly become a key feature of University cities across the UK, including Swansea. Such development can be described as

large-scale residential accommodation that is specifically designed for occupation by students attending higher or further education institutions. This may include new build development or the conversion of existing premises such as office blocks. It includes accommodation developed by education institutions and the private sector for use by students. PBSA generally does not fall within any specific use class, and therefore such development is categorised as an Unique Use.

2.9 Swansea LDP Policy H 11 'Purpose Built Student Accommodation', states that proposals for PBSA should be located within the defined Swansea Central Area, and must in the first instance assess the availability and suitability of potential sites and premises at this location, unless:

- The site is within a Higher Education Campus and is in accordance with an approved masterplan for the site; or
- In the case of the Swansea University Bay Campus, the development would not give rise to an additional number of residential units at the Campus than the number permitted by any extant planning permission; or
- The development would give rise to an overall benefit to the vitality and viability of the Swansea Central Area.

### **3.0 Public Consultation and Engagement**

3.1 A seven week public consultation and engagement process was undertaken on the draft version of the SPG between September 23rd and November 8th 2019. This involved a wide range of awareness raising and engagement activities, including:

- Print media articles and social media notices before and during the consultation
- Poster displays in the Civic Centre and Guildhall reception areas; and also in Central, Sketty, and St Thomas libraries
- A specific web page created for the SPG that described the consultation, provided a weblink to the document, and a link to the comment form.
- Notification emails posted to a range of stakeholders and members of the public, including Councillors, including representatives of residents groups, local planning agents, Swansea University and University of Wales Trinity Saint David, and private Landlords.
- A public/stakeholder information drop-in event hosted by Council Officers in the Civic Centre, between 4-7pm ((where Officers were available to explain the draft document and invite feedback).
- Hard copies of the SPG and comment forms were made available in all public libraries within the relevant areas (Central Library, Sketty and St Thomas libraries) and the Civic Centre reception area.

3.2 All comments received during the consultation have been recorded and evaluated, and the main issues that were raised are summarised in Section 4 of this Committee Report.

## **4.0 Key Issues Arising from the Consultation**

- 4.1 The 7 week public consultation generated a wide range of representations relating to all parts of the document, from a total of 18 different individuals/organisations. These representations have all been reviewed and considered by the Planning Authority. The main issues raised are set out below, grouped under sub headings that relate to different sections of the SPG:

### **Introductory Chapters**

- Add more information from the national guidance on what is required for a planning application to be valid.

### **HMO Guidance Chapter**

#### ***Radius Test***

- All planning applications for HMOs, including where the property is already a HMO in planning terms, should be subject to the radius test.
- A property should be counted in the radius calculation if any part of it falls inside the 50m radius.
- In the case of a building comprising multiple flats, the individual flat units should not be counted, just count the building once. Less protection is being given against HMO concentrations to people who live in/near flats.
- Clarify the approach to counting units above businesses.
- Provide more from the national guidance on principal elevation.
- The radius test should be made available for consultation.
- Base the concentration test on streets instead of radius.

#### ***Small Streets Test***

- The LDP provides too much flexibility on the implementation of the 1:8 ratio for small streets and the SPG has not tightened this up.

#### ***Data Sources***

- Provide more clarity on what data the local authority will use to determine how many HMOs are in the radius.
- State how often the HMO licensing register is updated.

#### ***Non-sandwiching Test***

- A C3 use sandwiched between HMOs should not be looked on more favourably for change of use to a HMO. This could cause clustering.

#### ***Property Suitability for HMO Use***

- Add specific room sizes for communal areas.
- Alternative suggestions made for the specified minimum room sizes.
- Ceiling heights on loft conversions should be specified.
- Soundproofing and soft closing fire doors should be required for all HMOs.
- Officers should conduct site visits on all planning applications.

### ***Other Technical Areas***

- Parking arrangements in planning consents are often not adhered to. Car parking is an issue in Brynmill and Uplands.
- Encourage more cycle storage and bike use.

### ***Exceptional Circumstances and Material Considerations***

- The exceptional circumstances provide too many 'get out clauses'.
- Requiring only 6 months marketing to justify a property is not viable as a C3 dwelling is too short.
- Support that exceptional circumstances are important because some homes are unlikely to appeal to families for C3 use.
- Tighter definitions required regarding some of the exceptional circumstances set out.
- Call in procedures to be made automatic for HMO planning applications with exceptional circumstances.

## **PBSA Guidance Chapter**

### ***General***

- Should be an upper limit to the number of units in the definition of PBSA.
- Lack of accountability for private firms when PBSA developments are not completed on time.
- Query why the Council is making the city centre a student village.

### ***Design and Amenity***

- Student take up of PBSA has been mixed with places being left surplus. Provide clarification on the potential for using consented PBSA for general residential use.
- Specify minimum room sizes for PBSA.
- More emphasis required on green spaces and environmental aspects.

### ***Other Technical Areas***

- Car parking standards do not provide enough car parking to cater for the numbers of students using cars.

### ***Planning Controls***

- Concerns regarding continuity of management plan implementation where the appointed management company ceases trading; and protecting tenants from landlords increasing rents to cover management plan costs.

## **5.0 The Amended Final Version of the SPG**

- 5.1 A full schedule of the responses of the Planning Authority to all the duly made consultation representations is included within the Consultation Report, which is published separately and also attached to this Committee report at Appendix A.

- 5.2 A large number of the comments made did not necessitate an amendment to the draft document as it was considered the LDP and/or SPG already sufficiently covered the points raised. Some comments made in support of the SPG did not require a response other than to note and welcome the representation made. Some suggestions put forward conflicted with the adopted LDP, or requested repetition of national guidance, neither of which are appropriate. A number of comments were queries that required an answer (which has been provided in the consultation report), but did not require a change to the SPG.
- 5.3 A number of comments did highlight the need for the draft SPG to be amended in order to: provide factual updates; additional cross references to relevant existing information; and improve the grammatical structure of the document. Specific changes have been made in order to provide more clarity in respect of:
- the approach that will be followed to identify HMOs within an area
  - the worked examples showing how to calculate concentration (in the Appendix to the SPG)
  - various definitions, including 'residential units' and 'PBSA'
- 5.4 Substantive amendments made to the draft SPG, which are now incorporated in the final version, include:
- Paragraph 3.2.11 - clarification that flats registered as HMOs under Section 257 of the Housing Act (because they do not conform to Building Regulations requirements) will not be counted as HMOs in the radius calculation.
  - Paragraph 3.2.14 - clarification that the LPA will have regard to all available evidence and consider on the balance of probability whether a property is an established HMO, before it issues a Lawful Development Certificate.
  - Paragraph 3.2.8 - clarification is provided that only residential uses above shops are counted as part of all residential properties within the radius in the denominator.
  - Paragraph 3.4.1-3.4.3 – confirmation of the negative effects that can arise from having HMO properties as neighbours on both sides, having particular regard to impacts on amenity and community cohesion, and that the issue of 'sandwiching' is self-evidently not a maximum threshold test.
  - Paragraphs 3.5.10 – 3.5.11 – additional reference to indoor communal space requirements, including clarification that this does not just need to take the form of a lounge, and provision may be appropriate in different ways, e.g. in the form of a large kitchen, with further clarification that communal space should be for dining as well as seating and socialising.
  - Paragraph 3.7.7 – additional example provided in relation to potential exceptional circumstances that could justify a breach of the thresholds, specifically commercial uses that are shown to be no longer viable.
  - Section 4.3 - clarification that consented PBSA is considered a distinct form of residential accommodation and that any proposal for conversion to C3 residential use would require a full and separate planning application. Additional text is provided to emphasise planning applications for PBSA should include an Adaptability Statement to consider how the development would not prejudice future uses. The amendment also clarifies that any

future change of use would be subject to the LDP policies including affordable housing provision.

- Appendix, Paragraph A.10 - the reference to the small street being created by an intersecting road has been deleted as this was incorrect.

5.5 The effectiveness and appropriateness of this SPG will be regularly monitored by the LPA having regard to the outcomes that arise, including the future concentrations of HMOs. This monitoring will consider any additional evidence arising over time, such as new national guidance and future outcomes of planning decisions on HMO proposals that reference the SPG (including planning appeals). This will be particularly important where such outcomes demonstrate that a particular change to the guidance is necessary for the LPA to continue to use the SPG to provide effective, evidenced based and sustainable decision making.

## **6.0 Financial Implications**

6.1 There are no significant financial implications arising from the publication of this SPG. The cost of the public consultation process and document production has been accommodated within existing budgets and staff resources, and has utilised, as far as possible, electronic communication (email and website). The final adopted document will be made available electronically and hard copies will generally only be produced upon request for an appropriate charge in order to recoup costs incurred. As such printing costs going forward will not be significant and can be met within allocated budgets.

## **7.0 Legal Implications**

7.1 The SPG will provide planning guidance to the adopted Swansea LDP and will be a material consideration in evaluating future planning applications.

7.2 The Council has a duty to seek to continually improve in the exercise of its functions (which include where appropriate powers) in terms of strategic effectiveness, service quality and availability, sustainability, efficiency and innovation pursuant to the Local Government (Wales) Measure 2009.

## **8.0 Equality & Engagement Implications**

8.1 The Council is subject to the Public Sector Equality Duty (Wales) and must, in the exercise of their functions, 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.

By following the Equality Impact Assessment process the Council ensures that due regard is paid to the above.

8.2 An Equality Impact Assessment (EIA) screening was carried out and this demonstrated that a full EIA was not necessary. The results of the screening are set out in Appendix C of this Committee Report.



**Background Papers:**

Report of the Head of Planning and City Regeneration to Planning Committee – 3rd September 2019, Draft Supplementary Planning Guidance: Houses in Multiple Occupation and Purpose Built Student Accommodation

**Appendices:**

Appendix A: Public Consultation Report

Appendix B: Houses in Multiple Occupation and Purpose Built Student Accommodation  
SPG

Appendix C: Equality Impact Assessment (EIA) Screening Form

**Appendix A:**  
**Public Consultation Report**

<https://www.swansea.gov.uk/spg>