

Report of the Head of Planning and City Regeneration

Planning Committee – 4 July 2017

SUPPLEMENTARY PLANNING GUIDANCE ON HOUSES IN MULTIPLE OCCUPATION AND PURPOSE BUILT STUDENT ACCOMMODATION

Purpose:	To inform Members of the representations received during the recent public consultation, agree the responses to these and proposed amendments to the Guidance, and adopt the final version as Supplementary Planning Guidance (SPG).
Policy Framework:	Planning and Compulsory Purchase Act 2004; City & County of Swansea Unitary Development Plan (Adopted November 2008); Well-being of Future Generations (Wales) Act 2015; Planning (Wales) Act 2015; Planning Policy Wales (2016) and related Guidance; Use Classes Amendment Order 2016.
Consultation:	Legal, Finance, Access to Services, Housing & Public Health.
Recommendation(s):	It is recommended that: a) The consultation representations, and responses to these by the Planning Authority (attached at Appendix 1 to this report) are noted and agreed; b) The final draft SPG (attached at Appendix 2 to this report) is approved and adopted as SPG.
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1.0 Introduction

- 1.1 The Houses in Multiple Occupation (HMOs) and Purpose Built Student Accommodation (PBSA) Supplementary Planning Guidance (SPG) has been prepared in partnership with planning consultants Lichfields to assist the determination of planning applications for HMOs (to accommodate students or other occupiers) and PBSA developments in Swansea. The document is supplemental to the relevant policies of the adopted Unitary Development Plan (UDP), namely HC5, HC11, EV1, EV2, EV3, and AS6.
- 1.2 The following sections of this report describe the planning context for the SPG and the purpose of the guidance. It outlines the 6 week public consultation and engagement process undertaken on the draft version, and summarises the range of comments received. The report sets out the response of the Planning Authority to these and recommends amendments that will help clarify and refine the SPG. A summary of the public consultation comments and the responses by the Planning Authority is enclosed at Appendix 1. A copy of the amended and final version of the SPG is enclosed at Appendix 2.

2.0 Planning Context

- 2.1 Building sustainable communities is one of five priorities in the Council's Corporate Plan (2016/17). This aligns with the Planning Act¹, National Planning Policy², and Well-being of Future Generations Act³, which requires the Council to achieve defined well-being goals, including maintaining cohesive communities that are attractive, viable, safe and well-connected.
- 2.2 The planning system defines HMOs into two different use classes dependant on their size:
Small HMOs: in broad terms this relates to shared dwelling houses which accommodate between 3-6 unrelated persons who share basic amenities. This type of property is defined as Use Class C4.
Large HMOs: relates to shared dwelling houses with more than 6 unrelated persons sharing basic amenities. Such development is defined as a 'Sui Generis' use class.
- 2.3 The Use Classes Amendment Order 2016 created the C4 use class in Wales and came into force on 25th February 2016. Following this amendment to the Use Classes Order, the Council has experienced a 'spike' in the number of planning applications for a change of use to a HMO. This is because the Use Class Order change has widened the scope of development proposals that require planning permission.
- 2.4 There are no specific national HMO or PBSA policies that prescribe how a Local Planning Authority (LPA) should determine such development, however policy requirements do require ensuring proposals are considered in terms of their effect on amenity and existing use of land/buildings in the public interest. National Planning Policy states that the effect of a proposal

¹ Planning Act (Wales) 2015

² Planning Policy Wales 2016

³ Well-being of Future Generations (Wales) Act (2015).

on the amenity of neighbouring properties should be assessed on the basis of general principles reflecting wider public interest (including standards of 'good neighbourliness'), rather than concerns of the individual. The cumulative effects of development, including conversion and adaptation, should not be allowed to damage an area's character or amenity.

2.5 National planning policy also requires LPAs to have a clear understanding of the factors influencing housing requirements in their area and to facilitate the provision of sufficient housing and choice. In this context, a community's need for affordable housing is a material planning consideration.

2.6 The extant local planning framework adopted by the Council is the Swansea UDP. The most relevant UDP policies relating to HMO and PBSA developments are:

Policy HC5 'HMOs' - which sets out the criteria to be used to determine a conversion to a HMO.

Policy HC11 'Higher Education (HE) Campus Development' - which sets out the acceptable parameters for HE campus development and confirms that the Council favours appropriate City Centre sites for student accommodation.

2.7 The Council is in the process of preparing its Local Development Plan (LDP). The Deposit LDP includes policies on HMOs (Policy H9) and PBSA (Policy H11), which will be subject to Public Examination in 2017/18.

2.8 The Council's maintains a public register of licensed HMOs within the Uplands and Castle Wards, which is a designated Additional Licensing Area. This register is maintained by the by the Council's Housing and Public Health Team, however it provides an up to date record of HMO properties within those Wards for use in planning decisions. Whilst currently there is no other Additional Licensing Area outside Uplands and Castle Wards, the Council is actively reviewing the evidence available in this regard to establish whether other areas meet the criteria for such a designation. Appropriate surveys, inspections and engagement will be carried out to provide the necessary evidence to underpin such a designation, which will highlight whether a significant proportion of HMOs in a given area are being ineffectively managed and likely to give rise to one or more particular problems, either for those occupying the HMOs or for members or the public.

3.0 SPG Purpose and Key Aspects

3.1 The overarching purpose of the SPG is to set out a clear planning strategy that augments and clarifies relevant UDP policy, as set out above, in order to provide for effective and consistent decision making on planning applications for PBSA and HMOs.

3.2 The SPG seeks to promote PBSA in appropriate City Centre locations, recognising the positive contribution this type of development can make to improving accommodation choice and quality; and the potential associated regeneration benefits.

- 3.3 The SPG acknowledges the important role of HMOs in providing affordable, flexible tenancies and the likely continued demand for them in the future, but seeks to avoid further harmful intensification or concentration and ensure provision is made sustainably. The SPG highlights the harmful impacts of unacceptably high concentrations of HMOs on communities. It seeks to avoid harmful intensification by applying a maximum threshold based on a two tier approach – i.e. a low threshold County wide and relatively higher threshold within a ‘HMO Management Area’.
- 3.4 The SPG is founded on a comprehensive and up to date evidence base including an update of local research undertaken by the Council in 2013 on the number, type, distribution and impacts of HMOs. It carried out a review of relevant national research, other Local Planning Authorities’ approaches, and appeal decisions. Considerable stakeholder engagement has been undertaken including workshops with Councillors and local landlord representatives; liaison with Registered Social Landlords and Housing Charities, and interviews with Universities and Student Forums.

4.0 Public Consultation and Engagement

4.1 A draft version of the SPG was approved by Members for the purpose of public consultation on 10th January 2016. The document was subsequently subject to a comprehensive six week period of consultation on the draft document between 23rd January – 5th March 2017. This involved the following awareness raising and engagement activities:

- A public notice in the South Wales Evening Post on 23rd January 2017
- Print media articles and social media notices prior to and throughout the consultation
- Poster displays in the Civic Centre and Guildhall reception areas; and Sketty, St Phillips (Castle Ward) and Port Tennant (St Thomas Ward) Community Centres.
- Display on the Civic Centre reception area electronic display board.
- A specific web page created for the SPG which set out a summary of the consultation, provided a weblink to the document, and a link to the e-consultation system and comment form.
- Notification emails posted to a range of stakeholders and members of the public, including Councillors, members of the public who requested to be informed and those who had commented on relevant policies in the recent Deposit LDP consultation, adjoining Authorities, Swansea University and University of Wales Trinity Saint David, the Student Liaison Forum, private Landlords, and Registered Social Landlords.
- A public information drop-in event hosted by Council Officers in the Civic Centre Reception Area on 7th February 2017, between 2-7pm.
- 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.

4.2 A wider process of engagement has been undertaken in the production of the SPG. Prior to the 6 week public consultation, a number of workshops and interviews were held with key stakeholders to inform the consultation draft SPG, including those with Members, Landlords and relevant Council

encourage future provision to be more dispersed. Outside the HMO Management Area it is not recommended to alter the threshold from 10% as this is based on the tipping point identified in national research⁴. None of the Planning Authorities considered by the 2015 Welsh Government research or the case studies researched in formulating the SPG adopted a threshold below the 10% tipping point, and the LPA would not be able to justify such an approach on the basis of evidence.

HMO Radius Approach

- 5.5 The SPG consultation draft proposed that the threshold calculation should be based on the number of properties within a 65m radius of the planning application. This was a further common topic of the public consultation responses. Some argued that the radius should be decreased to 50m, while some requested that the threshold be calculated on the basis of the numbers by street, not by radius.
- 5.6 Further analysis has been undertaken on the merits of using a 50m radius. On balance it has been concluded that a 50m radius would take appropriate account of the direct impacts of a HMO and it is recommended that the radius distance specified in the SPG is amended accordingly.
- 5.7 Further analysis has confirmed that, in most instances, a radius approach, rather than street approach, is considered to more accurately reflect the spatial extent of the likely impacts of a HMO by considering adjacent properties to the rear, or properties on adjacent streets. Furthermore, streets will vary considerably in length, thereby being likely to produce non-representative outcomes in terms of identifying concentrations, whereas a radius approach provides a more consistent, meaningful approach. In response to concerns raised during the consultation however, the SPG has been amended to ensure the guidance does take account of instances where 'small streets' (which can include distinct sections of longer streets) fall within the defined 50m radius area. Sampling undertaken to evidence the SPG has demonstrated that there could be occasions where there is a disproportionate concentration of HMOs in a single small street, where there are few or even no other HMOs in other streets within the radius area. This could result in the scenario where a proposal would pass the radius threshold test despite creating a harmful concentration of HMOs in the small street. As such, having regard to the evidence, the amended final version of the SPG states that:
- **Outside the HMO Management Area no more than 10% of the total number of all properties on small streets will be permitted to be HMOs**
 - **Within the HMO Management Area no more than 25% of the total number of all properties on small streets will be permitted to be HMOs**

Non-'Sandwich' Policy

- 5.8 A non-'sandwich' policy was put forward by the public in consultation responses i.e. the prevention of HMOs being located either side of a non-HMO property. Such an approach has been researched further by Officers and Lichfields. However, it is considered that such an approach would be too

⁴ Houses in Multiple Occupation: Review & Evidence Gathering Report of Findings. Welsh Government 2015 available at <http://gov.wales/topics/planning/planningresearch/publishedresearch/houses-in-multiple-occupation-final-report/?lang=en>

restrictive, particularly within the HMO Management Area. Furthermore, this approach serves to protect the interests of an individual property, rather than the wider public interest and national guidance makes it clear that it is not the role of the planning system to protect the private interests of one person against the activities of another. It further notes that development should be considered with regard to its effect on the amenity and existing use of land and buildings based on general principles reflecting the wider public interest, rather than the concerns of the individual. Therefore a non-'sandwich' policy has not been added to the SPG.

Other Responses

- 5.9 In terms of other queries received, comments were made on the format, language and clarity of the SPG and some general changes have been made throughout the document to ensure it is clear and understandable.
- 5.10 Queries were raised on the extent of the consultation undertaken, but Officers consider that the level of engagement and publicity for this SPG has been appropriate and comprehensive.
- 5.11 The evidence base that will be used to measure HMO concentrations was questioned by some respondents. In response, it is acknowledged that locations outside of the Additional Licensing Areas may contain some HMOs that have not required Licensing or were created before the introduction of the C4 Use Class and so did not require planning permission. The SPG notes that efforts will be made in St Thomas Ward to identify further HMOs.
- 5.12 It was raised that the SPG needs to emphasise the important role that HMOs provide for non-students and the potential impacts of Welfare Reforms. Some additional text has been added to the document to aid clarity but overall it is considered that the SPG already makes appropriate references in these respects.
- 5.13 In relation to a comment on the perceived negative visual impacts of letting boards, a reference has been added linking to the Council's Voluntary Code for Landlords and their Agents.
- 5.14 Clarification has been provided in response to queries on the proposed refuse storage and parking guidance. In terms of sound insulation, it was requested this should be required for all C4 HMOs as well as the larger HMOs for which it was proposed in the consultation SPG draft. However, Officers consider it appropriate to consider noise insulation when converting existing properties into larger HMOs (more than 6 persons – Sui Generis Use Class), but it is not considered reasonable to apply this requirement to C4 HMOs since the scale of C4 HMOs is similar to family housing in terms of the number of bedrooms and on this basis, noise insulation conditions cannot be justified as reasonable on planning grounds.
- 5.15 There are some limited locations within the HMO Management Area where the vast majority of properties are HMOs (i.e. over 80%). Despite consultation responses to the contrary it is still proposed in such exceptional circumstances that the SPG highlights a need for greater flexibility in the application of the threshold where the impact (individually and cumulatively)

of an additional HMO may not affect the character of the area. In such areas, it might be the case that the market for C3 residential properties will be a lot weaker, particularly for larger dwellings or properties requiring significant repair works. In these defined exceptional instances it would be more appropriate to take a flexible approach to HMO proposals to ensure the sustainable use of these properties rather than have C3 properties stand vacant for long periods. This is an approach that has been applied by other LPAs. Applicants will need to provide an assessment of why an exceptional case is justified and the SPG specifies what this should include.

- 5.16 In terms of PBSA only minor changes are proposed to the SPG, such as clarification that proposals on the edge of city centre will need to be sustainable locations that are accessible by active travel. The development of PBSA in City Centre locations is considered to dovetail with the Council's regeneration aims for the City Centre, for example in terms of generating an increase in footfall and vibrancy. Therefore the Council does not consider it is appropriate to support PBSA in alternative locations, other than within University campuses.
- 5.17 Suggested specific references to the exclusion of areas such as these to the north-west of the University of Wales Trinity St David's Swansea Waterfront Innovation Quarter are considered superfluous. Consideration in relation to location and accessibility as well as the availability and suitability of other sites are likely to more robustly demonstrate the appropriateness of a PBSA scheme, rather than applying specific area exclusions.
- 5.18 It is recommended that the summary of consultation representations, and responses to these by the Planning Authority (attached at Appendix 1 to this report) are noted and agreed by Members, and that the final draft SPG (attached at Appendix 2 to this report) is approved and adopted as SPG. It is also advised that the effectiveness and appropriateness of this SPG is regularly monitored by the LPA. The first review and update of the SPG will likely follow adoption of the Swansea Local Development Plan (LDP) to ensure it is compatible with the new development plan policy framework. This review will also provide an opportunity to 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 in determination (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 The SPG has been prepared by external consultants in partnership with officers with a ceiling budget of £25,000. The cost of the public consultation process was accommodated within existing budgets and staff resources.
- 6.2 The final adopted document will be made available electronically, therefore there will be no printing costs. There are no additional financial implications arising from the publication of this SPG.

7.0 Legal Implications

- 7.1 The SPG will provide planning guidance to the adopted UDP (2008), and will be a material consideration in determining future planning applications.
- 7.2 Following adoption of the LDP in due course, the SPG will similarly provide supplementary policy to relevant policies within the Plan, which will require the SPG to be updated to incorporate relevant cross references to LDP Policy.
- 7.3 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 Section 4 of this report outlines equalities considerations in respect of consultation activity. Summary material will be available in Welsh. An Equality Impact Assessment (EIA) screening has been carried out and this indicates that a full EIA is not necessary.

Background Papers:

Report of the Director of Place to Planning Committee, 10th January 2017, Supplementary Planning Guidance on Houses in Multiple Occupation and Purpose Built Student Accommodation – Draft for Consultation.

Appendices:

Appendix 1 – Summary of Public Consultation Comments and Officer Responses

Appendix 2 – Final Draft SPG for Adoption