

Bath & North East Somerset

Local Plan (Core Strategy /Placemaking Plan) 2011-2029

Partial Update

Options Consultation

January 2021

**Topic Paper: Houses in Multiple Occupation
(HMOs)**

**Bath & North East
Somerset Council**

Improving People's Lives

1 Introduction

- 1.1 The current planning policy framework at Placemaking Plan Policy H2 (Houses in Multiple Occupation) sets out the criteria to determine a change of use from residential (use class C3) to a large HMO (use class Sui Generis/SG) district-wide, as well as a change of use from residential (C3) to a small HMO (C4) in Bath, following the introduction of an Article 4 Direction.
- 1.2 Policy H2 is supplemented by the HMO Supplementary Planning Document (SPD), which sets out the Council's approach to avoiding the over concentration of HMOs in Bath. The SPD is currently being reviewed alongside the updates to policy H2.

2 Issues

- 2.1 Various issues relating to HMOs have been discussed during consultation with stakeholders, a number of which will be reviewed as part of the HMO SPD update currently taking place alongside the Local Plan Partial Update. These comprise issues such as setting the HMO concentration test threshold, reviewing the SPD measurement approach and sandwich tests, and safeguarding family homes. Initial discussion with key stakeholders on these issues is currently scheduled to take place in February 2021.
- 2.2 This options consultation relates to the issues raised regarding amendments to policies in the Local Plan.
- 2.3 Policy H2 currently relates to assessing applications for a change of use from C3 (residential) to C4 / SG (HMO). The current wording does not provide policy on assessing applications for:
- **New-build HMOs** (either C4 (small HMO) or Sui Generis (large HMO));
 - **Intensification of existing HMOs** from use class C4 (small HMO) to Sui Generis (large HMO); or
 - **Change of use from other uses to HMOs**, for example, applications relating to the change of use of a shop, community facility or office to provide a HMO.
- 2.4 These types of development are not explicitly dealt with elsewhere in the Placemaking Plan (except for the change of use from an office to a small HMO at policy ED1B).

2.5 Including these types of HMO applications within planning policy will ensure that they are assessed against relevant criteria, specific to the proposed development. Their inclusion will also give more certainty to applicants prior to submission of a planning application.

New build HMOs

2.6 Policy H2 does not currently include guidance on assessing proposals for new build HMOs. It focuses solely on change of use from C3 (residential) to C4 / SG (HMO).

2.7 The policy requires applications for change of use from C3 (residential) to C4 / SG (HMO) to be considered against criteria (i) – (vi). These criteria relate to the impact that such a change of use could have on the surrounding area.

2.8 The table below sets out the criteria and considers whether each would be relevant to the assessment of a new build HMO, in order to inform policy amendments for its inclusion.

Criterion	Reason	Relevant?
(i) Concentration of existing HMO	Additional HMO will impact existing concentration and balance.	Yes
(ii) Incompatibility with character and amenity of established adjacent uses	New build HMO use may be incompatible with character and amenity of adjacent uses.	Yes
(iii) Amenity of adjoining residents	New build HMO may impact amenity of adjoining residents.	Yes
(iv) Transport impact	Additional HMO may affect transport issues, such as parking and provision of new access.	Yes
(v) Loss of accommodation in locality	New build HMO will not lead to loss of existing uses, such as family homes. This relates to change of use only.	No
(vi) Prejudices commercial uses at ground / lower floors	New build HMO could potentially impact uses on lower floors if proposed as part of a mixed use development. However, this criterion relates to continuation of existing uses on lower levels, and therefore relates to change of use only.	No

- 2.9 Criteria (i) – (iv) are considered to be relevant to applications for new build HMOs. The wording of policy H2 should therefore be amended to provide for new build HMOs using these tests.
- 2.10 Criteria (v) – (vi) should be retained in relation to change of use applications only.
- 2.11 Supplementary criteria relating to new build HMOs will also be required. These include proposed location in line with the District-Wide Spatial Strategy for housing development, impact of the proposal on heritage assets, and design considerations. These items are not currently included within the policy, as the location of a change of use development is already established, and the external appearance is not relevant.
- 2.12 It is considered that the most effective way to include these supplementary considerations is to link or cross reference policy H2 to other relevant Local Plan policies. The policies considered most relevant are:
- HE1 (historic environment)
 - D2 (local character and distinctiveness)
 - D5 (building design)
 - D6 (amenity)

Intensification of existing HMOs

- 2.13 Planning permission is required for the intensification of a HMO from use class C4 (small HMO) to Sui Generis (large HMO). However, policy H2 does not currently address how this should be assessed in practice.
- 2.14 Policy H2 requires applications for change of use from C3 (residential) to C4 / SG (HMO) to be considered against criteria (i) – (vi). These criteria relate to the impact that such a change of use could have on the surrounding area.
- 2.15 Consideration has been given to whether the wording of policy H2 could be updated to also address the intensification of a HMO. The table below sets out the criteria and considers whether each would be relevant to the intensification of an existing HMO.

Criterion	Reasons	Relevant?
(i) Concentration of	HMO use already established. No	No

	existing HMOs	impact on concentration.	
(ii)	Incompatibility with character and amenity of established adjacent uses	HMO use already established.	No
(iii)	Amenity of adjoining residents	Intensification of HMO may impact adjoining neighbours in relation to increased noise and visual issues.	Yes
(iv)	Transport impact	Intensification of HMO may impact traffic issues such as increased parking.	Yes
(v)	Loss of accommodation in locality	HMO use already established. No loss of other accommodation types will occur.	No
(vi)	Prejudices commercial uses at ground / lower floors	HMO use of upper floors already established. However, there may be scope for proposed intensification that proposes to use ground floor currently in commercial use.	Yes

2.16 Criteria (iii), (iv) and (vi) are considered to be relevant to the intensification of HMOs, whereas criteria (i), (ii) and (v) relate to the creation of a new HMO use, whether through new build or change of use.

2.17 As criteria (i) is not considered to be relevant because it relates to the proportion of dwelling houses that are HMOs, it is not necessary for applications for intensification to undergo the 10% threshold test set out in the HMO SPD, which seeks to prevent concentrations of over 10% in each census output area.

2.18 Instead, the test at planning stage should relate to specific planning considerations, assessing the impact of intensification on issues commonly associated with HMOs. These issues are considered to be those which are raised most frequently through stakeholder engagement and reported to B&NES Environmental Health. They comprise:

- Impact on neighbouring amenity through noise, disturbance, visual issues and loss of privacy;
- Waste management issues;
- Car parking;
- Provision of a good standard of accommodation for occupants.

- 2.19 As such, it is proposed that a new policy is created (H2A), in order to ensure that applications for intensification are considered against relevant issues.
- 2.20 It is important to consider whether a mechanism is required for restricting the number of occupants within a HMO, once permission has been granted for a change of use from C4 to Sui Generis. There is a risk that permission could be granted for a large HMO to provide accommodation for a certain number of occupants based on an assessment concluding that there would be no harm, which could then be intensified further without the need for planning permission or a further assessment of potential harm.
- 2.21 Draft policy H2A therefore includes wording to the effect that the Local Planning Authority may consider it is necessary to attach a condition to permissions which restricts the number of occupants. This will ensure that planning applications for intensification are assessed based on the number of occupants proposed at application stage, without the risk of additional occupants being introduced at a later stage.
- 2.22 In order to meet the Council's environmental targets, a requirement for all enlarged HMOs to achieve an energy performance certificate 'C' rating is being tested through this consultation.

Change of use from other uses to HMOs

- 2.23 Policy H2 does not currently include guidance on assessing proposals for change of use from other uses (i.e. retail, leisure), to HMOs. It focuses solely on change of use from C3 (residential) to C4 / SG (HMO).
- 2.24 Consideration has been given to whether the existing wording of policy H2 could be updated to address the change of use from other uses to HMOs. The table below sets out the policy criteria and considers whether each would be relevant to such a proposal.

Criterion	Reason	Relevant?
(i) Concentration of existing HMO	Additional HMO will impact existing concentration and balance.	Yes
(ii) Incompatibility with character and amenity of established adjacent uses	HMO provided through change of use from another use may be incompatible with character and amenity of adjacent uses.	Yes

(iii)	Amenity of adjoining residents	Change of use to HMO from other use may impact amenity of adjoining residents.	Yes
(iv)	Transport impact	Additional HMO may affect transport issues, such as parking and provision of new access.	Yes
(v)	Loss of accommodation in locality	Residential accommodation will not be lost through change of use from another use (e.g. retail).	No
(vi)	Prejudices commercial uses at ground / lower floors	Change of use of non-residential upper floors to HMO may impact commercial uses at ground / lower floors.	Yes

2.25 Criteria (i) – (iv) and (vi) are considered to be relevant to applications for change of use from non-residential use to HMO. The wording of policy H2 should therefore be amended to provide for such proposals using these tests.

2.26 Criteria (v) is not relevant to such applications, but will need to be retained in relation to changes of use from C3 to HMO.

2.27 A supplementary criterion will be required in order to ensure that applications can be tested to ensure that no unacceptable loss of a commercial use would arise on a site as a whole, as current wording only focuses on commercial uses at ground / lower floor levels.

2.28 In order to meet the Council’s environmental targets, a requirement for all new HMOs provided through change of use to achieve an energy performance certificate ‘C’ rating is being tested. Policy wording to this effect is included in the draft policy.

3 Proposed policy options for consultation

3.1 Two options are set out below, for comment during consultation.

3.2 **Option 1** seeks to:

- Increase scope of policy H2 to refer to new build HMOs
- Increase scope of policy H2 to refer to change of use from other uses; and

- Introduce supplementary policy H2A relating to intensification of existing HMOs (C4 to SG)

3.3 The option 1 policy approach has been established through the review of the criteria set out in existing policy H2, in order to establish which criteria are relevant to the proposed policy amendments. Where necessary, additional criteria have also been added to the policy wording.

3.4 **Option 2** retains policy H2 with no amendments and therefore does not address the issues outlined above.

4 Pros and cons

4.1 The pros and cons of each option are set out in the tables below, relating to how each option seeks to meet the Council’s objectives.

Option 1	
Increase scope of policy H2 to refer to new build HMOs and change of use from other uses, plus introduce supplementary policy H2A relating to intensification of existing HMOs (C4 to SG)	
Pros	Cons
<ul style="list-style-type: none"> • Fills current specific policy gap relating to assessment of new-build HMOs, change of use from other uses, and the intensification of existing HMOs. • More certainty provided to applicants regarding criteria to be used in determining planning applications. • Restricts new-build HMOs in areas of high concentration. • Restricts change of use from other uses to a HMO in areas of high concentration. • Additional criteria provided to properly assess each type of application. • Allows for intensification to meet demand for bed spaces without the need for conversion of additional existing C3 uses. 	<ul style="list-style-type: none"> • Some parties may consider it appropriate to include applications for intensification (small HMOs to large HMOs) within policy H2, therefore including it within the 10% threshold test and restricting this type of application in areas of existing high concentration. This option does not include this.

Option 2

Retain policy H2 with no amendments

Pros	Cons
	<ul style="list-style-type: none">• Existing policy gap remains relating to the assessment of new-build HMOs, change of use from other uses, and the intensification of existing HMOs.• Planning Officers and applicants are not provided with clear assessment criteria for these development types.