

## **Report to Coventry City Council**

**by C Dillon BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Date: 4 November 2024

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Planning and Compulsory Purchase Act 2004 (as amended)

Section 20

## **Report on the Examination of the Coventry City Homes in Multiple Occupation Development Plan Document**

The Plan was submitted for examination on 25 August 2023

The examination hearing was held on 23 January 2024

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## **Abbreviations used in this report**

HMO	Homes in Multiple Occupation
HRA	Habitat regulations assessment
MM	Main modifications
SA	Sustainability appraisal

## Non-Technical Summary

This report concludes that the Coventry City Homes in Multiple Occupation Development Plan Document provides an appropriate basis for the planning of Coventry, provided that a number of main modifications are made to it. Coventry City Council has specifically requested that I recommend any main modifications necessary to enable the Development Plan Document to be adopted.

Following the hearing, the Council prepared a schedule of the proposed Main Modifications and carried out further sustainability appraisal and screening under the habitats regulations. The main modifications were subject to public consultation over a six-week period. I have recommended their inclusion in the Development Plan Document after considering the findings of the sustainability appraisal and habitats regulations screening and all the representations made in response to the consultation.

The main modifications are summarised as follows:

- Revisions to Policy HMO1 so that the criteria are justified, relevant to the intended scope of the policy and consistent with Policy HMO4 and the supporting text.
- Amendments to Policy HMO2 to make it clear how 'over concentration' of Homes in Multiple Occupation will be determined.
- Revisions to Policy HMO3 to make it clear how planning applications will be determined where Homes in Multiple Occupation already exist in the locality.
- Amendments to Policy HMO4 so that the criteria are clear, effective and consistent with national policy; and
- The insertion of monitoring indicators and supporting text to ensure that the performance of Policies HMO1, HMO2, HMO3 and HMO4 can be assessed on an annual basis.

A number of other modifications are recommended to ensure that the plan is positively prepared, justified, effective and consistent with national policy.

## Introduction

1. This report contains my assessment of the Coventry City Homes in Multiple Occupation Development Plan Document (DPD) in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended). It considers first whether the preparation of the DPD has complied with the duty to co-operate. It then considers whether the DPD is compliant with the legal requirements and whether it is sound. Paragraph 35 of the National Planning Policy Framework (2021) (the Framework) states that in order to be sound, Plans should be positively prepared, justified, effective and consistent with national policy.
2. On 19 December 2023 a revised Framework was published. However, it includes a transitional arrangement which indicates that, for the purpose of examining this DPD, the policies in the 2021 Framework will apply. Therefore, unless stated otherwise, any references to the Framework in this report relate to the 2021 version.
3. The starting point for the examination is the assumption that Coventry City Council (the Council) has submitted what it considers to be a sound plan. The DPD, submitted on 25 August 2023, is the basis for my examination. It is the same document that was published for consultation in March 2023.

## Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any Main Modifications (MMs) necessary to rectify matters that make the DPD unsound and /or not legally compliant and thus incapable of being adopted. My report explains why the recommended MMs are necessary. The MMs are referenced in bold in the report in the form **MM01**, **MM02** etc, and are set out in full in Appendix 1.
5. Following the examination hearing, the Council prepared a schedule of proposed MMs and carried out sustainability appraisal and screening under the habitats regulations of them. The MM schedule was subject to public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report.

## Policies Map

6. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a development plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted plan.

7. In this case, the submission policies map comprises the plan identified as 'Coventry City Council Administrative Area/ Area Covered by the HMO DPD'. The published MMs do not require any changes to the submission policies map. When the DPD is adopted, in order to comply with the legislation and give effect to its policies, the Council will need to update the adopted policies map to include the changes proposed in the submission policies map.

## **Context of the DPD**

8. The Coventry City Local Plan (2011-2031) was adopted in 2017. Since then, the City has continued to experience population growth at a rate which is faster than the national and regional averages. The Council recognises that there is a need to ensure that new development supports successful communities by ensuring the right mix of housing types in an area, securing appropriate design and supporting well managed properties. The Council also recognises that Homes in Multiple Occupation (HMOs) provide an important contribution to housing choice. However, there are mounting concerns from residents and stakeholders about adverse effects arising from changes within neighbourhoods where HMO concentrations are becoming more noticeable.
9. As a direct response, the DPD is intended to supplement the strategic policies of the adopted Local Plan and the City Centre Area Action Plan. It seeks to manage future proposals for HMOs which, regardless of size, fall under planning control following the recently adopted City-wide Article 4 Direction.

## **Public Sector Equality Duty**

10. In examining the Plan, I have had due regard to the aims expressed in section 149(1) of the Equality Act 2010. The Council's Equality Impact Assessment (including Health Impact Assessment) provides an assessment of the DPD against a range of protected characteristics. In summary, I am satisfied that the Plan will not have any disproportionate or undesirable consequences for others as a result of protected characteristics.

## **Assessment of Duty to Co-operate**

11. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council has complied with any duty imposed on it by section 33A in respect of the preparation of the DPD. The Council's Duty to Cooperate Statement (August 2023) sets out the scope of its engagement activities in this regard.
12. In summary, the Council has engaged with relevant neighbouring authorities in the preparation of the DPD. They have confirmed in writing that there are no strategic cross boundary matters that apply. I agree with this shared position. The Environment Agency and Historic England, who are prescribed bodies for

the purposes of the duty, have raised some concerns about the content of policies. However, these relate to soundness matters, rather than engagement in the preparation of the Plan, and are addressed elsewhere in this report.

13. In conclusion, where necessary, the Council has engaged constructively, actively and on an on-going basis in the preparation of the DPD. The duty to co-operate has been met.

## **Assessment of Other Aspects of Legal Compliance**

### **Local Development Scheme**

14. The Council's Local Development Scheme was published in early 2022. It was updated in November 2022 to reflect the decision to undertake a full review of the adopted Coventry City Local Plan. The timescales for the preparation of the DPD are contained within this scheme.
15. Consultation on the DPD at Regulation 18 stage took place in September 2022, as scheduled. The Publication draft was consulted on in March 2023, as scheduled. However, there has been some minor slippage in the anticipated timescale for submission and adoption of the DPD. The Scheme was revised during the examination, in February 2024, to reflect current timescales.
16. In conclusion, overall, the preparation of the DPD accords with the Council's adopted Local Development Scheme

### **Consultation**

17. The Council's Regulation 22 Consultation Statement confirms that public consultation on the DPD has been carried out at each stage of plan preparation. All consultation material was made available online at the Regulation 18 and 19 stages.
18. A range of different approaches were used to encourage participation and responses. This included stakeholder meetings and briefings; seminars and presentations; conferences and workshops. A series of drop in sessions and exhibitions at libraries were also held. Emails or letters to those on the Council's consultation database were circulated. The Council also publicised the consultation through social media, leaflets and posters; press releases; media interviews and newspaper articles. A 'Frequently Asked Questions' document was made available to support all of this activity. Consultation responses were accepted by email, letter and through the Council's online consultation portal.

19. In conclusion, consultation on the DPD was carried out in compliance with the Council's adopted Statement of Community Involvement 2021 and meets the consultation requirements of the Regulations. Adequate opportunities were provided to allow people to participate in the plan-making process.

## **Sustainability Appraisal**

20. The Council carried out a sustainability appraisal (SA) of the DPD. This work formed part of the plan making process. It led to the publication of a report of the findings of the appraisal on the submission DPD.
21. The SA assessed the policies of the DPD against a range of economic, social and environmental objectives. Reasonable alternatives were also considered including not preparing the DPD and having different thresholds and distances for the management of HMOs. The SA outcomes were used to inform the submitted DPD and were published along with the DPD and other submission documents under Regulation 19. A subsequent addendum<sup>1</sup> to the SA was published which assessed the implications of the MMs on sustainability objectives.
22. In conclusion, the Council's SA work provides a robust and proportionate assessment.

## **Habitat Regulation Assessment**

23. In line with the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations), a Habitats Regulation Assessment (HRA) has been undertaken. Its findings are contained in the Council's SA Report and addendum and clearly justify that an Appropriate Assessment is unnecessary in this instance. Natural England have reviewed the HRA and raised no objections. Based on the evidence provided, I agree with that conclusion.

## **Other Legal Requirements**

24. Regulation 8 (4) & (5) of the 2012 Regulations require that the policies of any new plan are consistent with the adopted development plan. The exception to this is where it is explicit that the new plan contains a policy that is intended to supersede a policy in the adopted development plan and that policy is identified. The DPD clearly sets out its supplementary role as part of the wider development plan for the City. The adopted plan includes policies to address the strategic priorities for the development and use of land in the local planning

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<sup>1</sup> The Sustainability Appraisal (SA) incorporating Strategic Environmental Assessment (SEA) & Habitats Regulations Assessment (HRA) Addendum Note (March 2024)



authority's area. The supplementary role of the DPD is consistent with these. As such, the DPD is consistent with sections 19(1B) and 19(1C) of the 2004 Act.

25. The DPD, as part of the wider development Plan for the City includes policies designed to secure that the development and use of land in the local planning authority's area which contribute to the mitigation of, and adaptation to, climate change. Policy HMO4 specifically seeks to respond to the effects of climate change. Therefore, the DPD is consistent with section 19(1A) of the 2004 Act.

### **Conclusion on Other Aspects of Legal Compliance**

26. In overall conclusion, the DPD complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

## **Assessment of Soundness**

### **Main Issues**

27. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearing, I have identified 3 main issues upon which the soundness of the DPD depends. This report deals with the main issues. It does not respond to every point or issue raised by representors, nor does it refer to every policy criterion.

### **Main Issue 1 – Whether the purpose and strategy of the DPD are justified and consistent with national planning policy**

28. The purpose and strategy of the DPD is focussed on securing the appropriate management of the distribution, concentration and quality of HMO proposals. It is intended to supplement the Local Plan, the recently confirmed Article 4 Direction and the HMO licensing regime. This is to safeguard against adverse environmental effects and improve the quality of HMO accommodation across the City.
29. The Council has mapped the distribution and numbers of known HMOs within the plan area. Some residential areas of the City already have very high concentrations of HMOs. Elsewhere, HMOs are also becoming increasingly popular in peripheral locations away from the city centre. Furthermore, the Council's HMOs: The Need for an Article 4 Direction Report (July 2022) and The Supporting Case for HMOs Article 4 Direction Report (August 2022) recognise that a higher than average rate of population growth is taking place across the City. This is associated with the 'young professional' demographic and the expansion of local colleges and universities.

30. The adopted Local Plan has sought to manage the provision of new HMO accommodation, particularly through Policy H11. Nonetheless, the Council has recognised that the continued growth and distribution of HMOs has given rise to concentrations that can adversely affect neighbourhoods. Paragraphs 4.1- 4.3 of the DPD summarise the harmful impacts which include effects on local character and the living conditions of existing residents. The Council's position is supported by representations made by stakeholders, including the Police Authority, and local residents. The evidence provided in support of the Plan therefore justifies its role and function as a standalone DPD which sits alongside the Local Plan and is intended to raise the standards of new accommodation.
31. The strategy of the DPD is set across 4 policies. Policies HMO2 and HMO3 seek to manage the concentration and distribution of HMOs. Policies HMO1 and HMO4 provide assessment criteria to ensure that the living conditions of existing residents are maintained, the character of neighbourhoods is preserved, and a good standard of living accommodation is secured. The findings of the SA, Equality Impact Assessment and duly made representations have informed the identification of the preferred strategy for managing the location of new HMO proposals and the scope of relevant policy requirements.
32. Each of these 4 policies is consistent with both the purpose of the DPD and the Local Plan. Overall, the strategy of the DPD is justified. It is also consistent with paragraph 92 of the Framework, which requires planning policies to aim to achieve healthy, inclusive and safe places. The DPD does not seek to restrict new HMOs or introduce a ceiling, but to ensure that their concentration and distribution does not have harmful environmental effects. In this regard, there is no conflict with national policy.
33. In overall conclusion, the main issues facing the City associated with growth in HMO accommodation have been evidenced. The purpose and strategy of the DPD to address these are justified and consistent with national planning policy.

## **Main Issue 2 – Whether Policies HMO1 and HMO4 are a justified and effective means to manage the quality of HMOs and whether they are consistent with national planning policy**

34. Through their criteria-based approach, Policies HMO1 and HMO4 set out requirements for HMO proposals. Policy HMO1 seeks to secure acceptable levels of accessibility, parking and living conditions for prospective and existing residents. It also seeks to avoid harm to the character and appearance of the area, heritage assets, and highway safety. Policy HMO4 sets out requirements to secure a good standard of HMO accommodation. The policy criteria seek to avoid harm in terms of the living conditions of all residents, design, crime, the significance of heritage assets and flood risk.

35. In principle, both policies are justified and consistent with the role and purpose of the DPD. Furthermore, their scope and objectives are consistent with national planning policy in terms of living conditions, design and crime prevention.
36. However, as submitted, both policies and the supporting text are unclear on the types of HMO proposals that they would apply to. To be effective, these policies need to state that they apply to both new HMOs and the intensification of existing HMOs which require planning permission. This is rectified by **MM01**, **MM02** and **MM08**. Further MMs are required to both policies as follows.
37. Criterion (a) of Policy HMO1 is unclear on what constitutes a 'good' level of accessibility and how that level will be assessed. For effectiveness, further clarification is provided through the supporting text by **MM03**. It states that factors to consider in determining applications will include whether proposals are within walking distance to public transport provision. It also sets out the type of documents that will be used for that assessment.
38. As submitted, Criterion (b) requires accordance with emerging national accessible homes standards. However, unless HMO proposals meet the definition of dwellings that arise from new build or material alterations, they will fall beyond the scope of these standards. This requirement is therefore more onerous than Building Regulations, without justification. Furthermore, the viability of this policy criterion has not been tested. It is therefore necessary to delete Policy HMO1(b) and renumber the remaining criteria accordingly. This is rectified by **MM02**.
39. Criterion (c) extends beyond the intended scope of Policy HMO1 into matters covered by Policy HMO4. In doing so, it contains repetition and inconsistency in respect of living conditions, character and appearance, highway safety and heritage assets. Furthermore, the reference made to the historic environment is inconsistent with the approach and language used in the Framework. For effectiveness and consistency with national policy, it is necessary to delete the references to living conditions, character and appearance, highway safety and heritage assets. This is rectified by **MM02**.
40. The Article 4 direction has been confirmed since the DPD was written. The resulting out of date references to it contained in the supporting text are a source of confusion for the interpretation of Policy HMO1 and the wider DPD. Consequently, it is necessary to update the existing position by **MM03** for effectiveness.
41. With regard to Policy HMO4, criterion (b) is imprecise in its reference to amenity and noise. This would hinder the correct application of the policy. To be effective, it is necessary to insert new wording through **MM08**. This makes it clear that it is the amenity of occupants of neighbouring properties and activity,

noise and disturbance arising from the HMO proposal itself that are the relevant policy considerations.

42. Criterion (b) is also imprecise about whether it extends to non-designated heritage assets. As worded, it does not reflect the language and approach of the Framework. To be effective and consistent with national policy, reference to 'designated' and 'non-designated' heritage assets are required by **MM08**. For the same reasons, and for effectiveness **MM08** also introduces language consistent with the Framework and the creation a separate criterion for heritage matters.
43. Criterion (c) of Policy HMO4 requires all proposals to take into account minimum room size requirements, which are defined by the policy itself. Amongst other things, Policy HMO4 states that rooms less than 4.64m<sup>2</sup> must not be used as sleeping accommodation. The minimum size requirements are an appropriate and justified mechanism to secure adequate standards of HMO accommodation. However, for effectiveness, further information relating to the standards is provided in the supporting text by **MM09**.
44. Criteria (e) is concerned with the provision of adequate external space for HMOs. However, in terms of refuse storage there is overlap with criterion (f) which, in turn, does not clearly articulate the required standards. **MM08** is therefore necessary for effectiveness. This MM addresses the overlap and clarifies that 'sufficient' refuse storage which is suitably 'located' is required. Furthermore, as car parking will only be required for some, not all proposals, **MM08** also makes the necessary distinction. In addition, to secure good quality design, **MM08** clarifies that outdoor space must be usable.
45. Criterion (f) is imprecise in its reference to Secured By Design as 'standards' and is unclear how adherence with these standards is to be demonstrated. To be effective, **MM08** is necessary so that Secured By Design is appropriately referred to as a set of principles; and a management plan which addresses these design principles is required in all instances.
46. Flood risk is referred to in the supporting text as a relevant issue. However, the wording of Policy HMO4 does not cover this consideration. In the interests of policy effectiveness, **MM08** inserts an additional criterion, (i), which requires the applicant to demonstrate how, in areas at risk of flooding, the safety of those ground floor occupants will be secured. **MM10** provides relevant supporting text which sets out the means by which this may be achieved. The Environment Agency have confirmed that subject to these changes, the policy is sound.
47. Finally, no means of monitoring the future performance of either policy has been included within the DPD. For effectiveness, it is necessary to insert a monitoring section including relevant indicators. This will enable the implementation of the

DPD to be monitored and any necessary future remedial action for the Council to be identified. This is rectified by **MM12**.

48. Subject to the recommended MMs, Policies HMO1 and HMO4 are a justified and effective means to manage the quality of HMOs and they are consistent with national planning policy.

### **Main Issue 3 – Whether Policies HMO2 and HMO3 are a justified and effective means to manage the distribution of HMOs and whether they are consistent with national planning policy**

49. Policies HMO2 and HMO3 seek to avoid harmful concentrations of HMOs which can lead to adverse impacts on the character and appearance of neighbourhoods and the standard of living accommodation for existing residents. To achieve this, Policy HMO2 restricts new proposals where 10% or more of all dwellings falling within 100 metres of the application site are already HMOs. In addition, Policy HMO3 restricts proposals where it would result in a property becoming 'sandwiched' between 2 HMOs, or, where a proposal would lead to a continuous frontage of 3 or more HMOs. It lists 6 scenarios that represent the 'sandwiching' of single household properties between HMOs.
50. Paragraph 96 of the Framework states that planning policies should aim to achieve healthy, inclusive and safe places which, amongst other things, promote social interaction and are safe and accessible. Both policies support the principle of HMOs but seek to avoid harmful concentrations of similar development. Overall, I am satisfied that the policy approach is justified, reasonable and consistent with the aims and objectives of national planning policy. The approach will ensure a transparent, effective and consistent means of assessing future planning applications.
51. An alternative concentration percentage and distance for Policy HMO2 could have been used by the Council. However, those chosen were derived through the Council's spatial mapping and understanding of the potential adverse effects of high concentrations of HMOs. Challenges made to the preferred concentration and distance do not demonstrate that the policy is unsound. The Council's judgements and the threshold chosen are reasonable and justified.
52. However, the supporting text does not clearly convey the purpose and role of Policy HMO2. For effectiveness, **MM05** therefore states that because harm can arise from increased levels of anti-social behaviour and noise within the immediate vicinity of HMOs, and on routes linking them with the city centre, the policy seeks to ensure that potentially harmful concentrations do not arise and that existing living conditions of residents are maintained.

53. It is also unclear whether extant unimplemented planning permissions for HMOs should be factored into the calculation for assessing their proposed positioning within a street and resulting concentration. This could lead to an error or inconsistency in the calculation undertaken. For clarity and effectiveness to users of the DPD, **MM07** and **MM11** are therefore needed. They clarify that extant unimplemented planning permissions will be factored into the calculation.
54. To be effective, Policy HMO2 also needs to direct the reader to the intention that applications will not be 'permitted' where they conflict with the policy requirements. Furthermore, proposals are to be considered against all other relevant 'development plan' policies. **MM04** provides the appropriate clarity on these matters.
55. As for Policy HMO3, the reference to 'single residential properties' in scenario 1 and use of 'and' between each sandwiching scenario cause ambiguity for the interpretation of the policy. To be effective, it is necessary to make it clear that scenario 1 refers to 'dwellings' and that each scenario is a separate consideration through the insertion of 'or'. This is rectified by **MM06**.
56. There is no means of monitoring the future performance of either Policy HMO2 or HMO3. Similar to my findings on Policies HMO1 and HMO4, **MM12** will rectify this in the interests of future policy effectiveness.
57. Subject to the recommended MMs, Policies HMO2 and HMO3 are a justified and effective means to manage the distribution of HMOs and they are consistent with national planning policy.

## Overall Conclusion and Recommendation

58. The DPD has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues set out above.
59. The Council has requested that I recommend MMs to make the DPD sound and capable of adoption. I conclude that the duty to cooperate has been met and that with the recommended MMs set out in Appendix 1, the Coventry City Homes in Multiple Occupation Development Plan Document satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

*C Dillon*

Inspector

This report is accompanied by Appendix 1 containing the Main Modifications.