

**11 September 2024**

**Housing Strategy – Houses in Multiple  
Occupation**



**Amy Harhoff, Corporate Director of Regeneration, Economy and  
Growth**

**Electoral divisions affected:**

Countywide.

**Purpose of the Report**

- 1 Following the meeting of County Council on 17 July 2024 and the decision to defer adoption of the County Durham Housing Strategy (CDHS), the purpose of the report is to provide the Economy and Enterprise Overview and Scrutiny Committee with an update on the HMO issue that was raised by Members at the meeting and to set out next steps to adopting the CDHS. There is also an accompanying report to discuss the Council House Build Programme.

**Executive summary**

- 2 On 10 July 2024 Cabinet agreed to recommend to County Council that they adopt the CDHS. It also agreed to adopt the accompanying 12-Month Delivery Plan subject to the CDHS being adopted by County Council.
- 3 At the meeting of County Council on 17 July 2024 and following extensive discussion the decision of County Council was to defer adoption of the CDHS. The main points of concern related to how the Housing CDHS dealt with:
  - The proliferation of HMOs in the county and the potential use of Article 4 Directions; and
  - The Council House Build Programme and particularly the delivery timeframe and the composition of the proposed 500 units.
- 4 In order for the CDHS to return to Cabinet and County Council for adoption we have prepared this report to discuss the HMO issue. There is also an accompanying report to discuss the Council House Build Programme.

- 5 A House in Multiple Occupation is defined as a building or flat in which more than one household shares a basic amenity, such as a bathroom, toilet or cooking facilities.
- 6 The data on licensable HMOs containing five separate tenants or more shows that as of May this year there were 915 dwellings in County Durham with an HMO licence. 878 of these are in the wider Durham City area and only 37 were outside of the DH1 postcode area.
- 7 There is national legislation in place to regulate HMOs and the council must operate in line with this legislation. We have limited powers to control the creation of HMOs in the county and no involvement in selecting the tenants who live in them, but we do have the following powers under the following areas:
  - Planning and Article 4 Directions;
  - HMO Licencing; and
  - Selective Licensing.
- 8 Most mentions of HMOs in the draft Housing Strategy are in the context of student accommodation in Durham City. However, as a result of the concerns Members had regarding HMOs and the Council House Build Programme, we may propose appropriate amendments to the CDHS. Any feedback from the Economy and Enterprise Overview and Scrutiny Committee will inform these amendments which will then be presented to the Overview and Scrutiny Committee on 4 November 2024 before the CDHS then returns to Cabinet and County Council for adoption.

### **Recommendation**

- 9 It is recommended that the Economy and Enterprise Overview and Scrutiny Committee note the contents of the report and provide any further feedback to inform the CDHS to be approved by Cabinet and County Council.

## **Background**

- 10 On 10 July 2024 Cabinet agreed to recommend to County Council that they adopt the County Durham Housing Strategy (CDHS). It also agreed to adopt the accompanying 12-Month Delivery Plan subject to the CDHS being adopted by County Council.
- 11 At the meeting of County Council on 17 July 2024 and following extensive discussion the decision of County Council was to defer adoption of the CDHS. The main points of concern related to how the Housing CDHS dealt with:
  - The proliferation of HMOs in the county and the potential use of Article 4 Directions; and
  - The Council House Build Programme and particularly the delivery timeframe and the composition of the proposed 500 units.
- 12 In order for the CDHS to return to Cabinet and County Council for adoption we have prepared this report to discuss the HMO issue. There is also an accompanying report to discuss the Council House Build Programme.

## **Houses in Multiple Occupation**

What is a House in Multiple Occupation (HMO)?

- 13 A House in Multiple Occupation (HMO) is defined as a building or flat in which more than one household shares a basic amenity, such as a bathroom, toilet or cooking facilities.
- 14 In guidance for local authorities published in 2018, the Government stated that HMOs form an important part of the private rented sector, often providing cheaper accommodation for people whose housing options are limited including professionals, students, migrants, and people on low incomes. HMOs are similar to any other housing type in that well-managed HMOs usually go unnoticed within communities. The majority of HMOs in County Durham are well-managed.

County Durham Context

- 15 The data on licensable HMOs containing five separate tenants or more shows that as of May this year there were 915 dwellings in County Durham with an HMO licence. 878 of these are in the wider Durham City area. Only 37 were outside of the DH1 postcode area with one licenced in the Seaham area, two in Bishop Auckland, three in Peterlee area and 12 in Stanley and Annfield Plain.

What powers does the council have to regulate HMOs?

- 16 There is national legislation in place to regulate HMOs and the council must operate in line with this legislation. We have limited powers to control the creation of HMOs in the county and no involvement in selecting the tenants who live in them. A summary of our powers is as follows.

#### Planning and Article 4 Directions

- 17 Planning permission is required when a landlord/agent is intending to use a house as an HMO for more than six people. If the landlord/agent rents out a house to six tenants or fewer it is considered permitted development and planning permission is not required.
- 18 An exception to the above is when an Article 4 Direction is made under planning legislation. This removes specified permitted development rights, meaning in this case that planning permission would be required when a single family house is to be changed into an HMO with fewer than six tenants. The application would then be considered against Policy 16 in the County Durham Plan.
- 19 Article 4 Directions are intended for in areas where there is a high density of existing HMOs and where there is clear evidence that HMOs are having a negative impact on neighbouring residents and further controls needed. Paragraph 53 of the existing National Planning Policy Framework (NPPF) states that Article 4 Directions should be 'limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area' and 'be based on robust evidence, and apply to the smallest geographical area possible'.
- 20 The council has introduced three Article 4 Directions for HMOs in Durham City, Framwellgate Moor, Newton Hall and Pity Me, Mount Oswald and Belmont and Carville. These Article 4s were justified on the basis of promoting mixed and balanced communities and preventing the over concentration of HMOs with the potential negative impacts this might have for residents.
- 21 As there are very few existing HMOs outside of Durham City and no reports of any existing issues, or evidence showing a direct link between HMOs and anti-social behaviour or other problems, it would be very difficult to justify an Article 4 Direction in any of these areas.

#### HMO Licencing

- 22 Landlords or agents managing a property for five or more occupiers must apply for an HMO Licence from the council. Under the Housing Act 2004, the landlord does not need to apply for the licence until the property is occupied by the tenants, meaning local authorities have no control over a property being converted into an HMO and no insight into

who the tenants will be. The council is legally bound to grant a five-year HMO Licence if the applicant meets the nationally set requirements.

- 23 Once an HMO Licence is in place, the council carries out regular inspections to ensure the property has no unacceptable hazards and has access to amenities. The landlord must also comply with licensing conditions relating to the management of the premises, provision of facilities and safety of the occupants, as well as taking reasonable steps to control any anti-social behaviour.

#### Selective Licensing

- 24 Selective Licensing gives the council powers to regulate landlords and managing agents operating within the private rented sector in areas with low housing demand and/or high levels of anti-social behaviour and/or deprivation. There are currently 103 designated Selected Licencing areas across the county.
- 25 Selective Licence holders must comply with conditions to make sure their properties and tenancies are managed effectively. A property with an HMO Licence is exempt from Selective Licensing. However, a property which does not require an HMO Licence (has fewer than five tenants) would require a Selective Licence if it was located in a Selective Licensing area.
- 26 The aim of Selective Licensing is to ensure the private rented sector offers tenants a choice of safe and well managed accommodation by improving management standards, reducing house hazards and disrepair, and reducing anti-social behaviour. The benefits include:
- Improved health and wellbeing of tenants;
  - Improved management practices. Landlords who fail to get a licence for a property or who are unwilling to manage it effectively can face prosecution or fines. In some cases, the council can take over the management of the property; and
  - Reduced anti-social behaviour. Tenants are made aware of how their behaviour can affect their tenancy and landlords are working alongside the council and other partners to address and reduce anti-social behaviour associated with their properties.
- 27 This is helping to ensure landlords who fail to maintain and manage their properties are held accountable. As well as supporting tenants, this has led to neglectful landlords leaving the market.

- 28 The council continues to carry out proactive and reactive inspections in Selective Licensing areas across County Durham to ensure landlords/agents are complying with all conditions.

### **Housing Strategy and HMOs**

- 29 Most mentions of HMOs in the draft Housing Strategy are in the context of student accommodation in Durham City. However, there is one reference relating to Priority 3: Ensure high quality, energy efficient houses and effective landlord services, which states that we will ‘work to identify new HMOs that require a licence and take robust action against landlords who fail to comply with legislative requirements and HMO management regulations’.
- 30 In light of the perceived increase in the number of HMOs in the county further reference to this issue could potentially be included in the Housing Strategy. The 12-month delivery plan could also include an action seeking to explore the extent of the issue in the county and whether any further controls, for example an Article 4 Direction, would be required.

### **Next Steps**

- 31 Any feedback from the Economy and Enterprise Overview and Scrutiny Committee will inform amendments to the CDHS which will then be presented to the Overview and Scrutiny Committee on 4 November 2024 before the CDHS then returns to Cabinet and County Council for adoption.

### **Background papers**

- [Housing Strategy Principles and Priorities Paper 2023](#)
- [Draft County Durham Housing Strategy 2024](#)

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## **Appendix 1: Implications**

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### **Legal Implications**

Section 8 of the Housing Act 1985 requires local housing authorities to consider housing conditions in their area and the needs of the area with respect to the provision of further housing accommodation.

### **Finance**

The draft CDHS identifies a series of actions and outcomes. Each of these will be associated with a project that may require a funding bid once the scope of the project is determined. The CDHS does not guarantee funding for the projects listed.

### **Consultation and Engagement**

The CDHS Principles and Priorities paper was subject to public consultation for eight weeks between 26 June 2023 to 18 August 2023.

Consultation was also undertaken on the draft housing strategy between 30 October 2023 and 18 December 2023.

Consultation was undertaken with residents of County Durham and other stakeholders with a potential interest in the content of the document. Consultation was also undertaken with Overview and Scrutiny on three occasions:

- 10 July 2023: OSC Housing Strategy Workshop
- 18 December 2024: E&E OSC Draft County Durham Housing Strategy
- 22 April 2024: E&E OSC Draft County Durham Housing Strategy

### **Equality and Diversity / Public Sector Equality Duty**

The Equality Act 2010, public sector equality duty S149-157 of the Act, has been considered as part of a full equalities impact assessment, which was attached to the Cabinet and County Council Report. The CDHS presents no negative impact on the protected groups.

### **Climate Change**

Addressing the cause of climate change is a key thread through the draft CDHS including principle seven and priority three that state that the strategy will support energy efficiency and carbon reduction in existing and new housing.

## **Human Rights**

Protocol 1 Article 1: Every natural or legal person is entitled to the peaceful enjoyment of his possessions including their property; the CDHS will provide a framework to deliver housing to meet housing needs.

Article 8: provides a right to respect for private and family life. Everyone has the right to respect for his private and family life, his home, and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of:

- national security;
- public safety;
- economic wellbeing of the country;
- for the prevention of disorder or crime;
- for the protection of health or morals; or
- for the protection of the rights and freedoms of others.

The council will ensure the CDHS will be consistent with the council's human rights obligations.

## **Crime and Disorder**

None.

## **Staffing**

Resource is required to progress the production, monitoring, review, and implementation of the CDHS.

## **Accommodation**

None.

## **Risk**

Detailed risk assessments will be undertaken at the project level and as part of delivering against the CDHS.

## **Procurement**

None.