

---

**Report to:** Overview and Scrutiny Committee **Date of Meeting:** 19 March 2013  
(Regeneration & Environmental Services)

**Subject:** Item Called In – Housing in Multiple Occupation (HMO) and Flats  
Supplementary Planning Document (SPD)

**Relevant Cabinet Members:**

Councillor Peter Dowd (Leader of the Council)  
Councillor Ian Maher (Regeneration and Tourism)

**Report of:** Director of Corporate Commissioning **Wards Affected:** All

**Is this a Key Decision?** Yes **Is it included in the Forward Plan?** Yes

**Exempt/Confidential** No

---

**1.0 Purpose/Summary**

- 1.1 To advise the Overview and Scrutiny Committee of the relevant aspects of the Constitution and the reason for the call in of the decision of the Cabinet on the above item as set out in paragraph 3.3 to the report.
- 1.2 To seek the views of the Overview and Scrutiny Committee.
- 1.3 In the event of the Committee being concerned about the decision, the Overview and Scrutiny Committee must decide which of the following course of action is to be taken in relation to this matter:
  - a referral of the matter to the Cabinet for re-consideration, setting out the nature of the Overview and Scrutiny Committee's concerns; or
  - b referral of the matter to Council for the Council to decide whether it wishes to object to the decision (subject to the guidance set out in paragraph 3.5).
- 1.4 In the event of the Committee being satisfied with the decision, the decision can proceed for implementation immediately following the meeting.

**2.0 Recommendation(s)**

- 2.1 That the Committee considers the reasons set out in the extract of the Constitution (paragraph 3.5) and the requisition for call in and determines its jurisdiction accordingly.
- 2.2 That the Committee determines whether it is concerned about the decision;

2.2 If the Committee is concerned about the decision, that the Committee indicates which of the options set out in paragraph 1 above it wishes to pursue.

**How does the decision contribute to the Council’s Corporate Objectives?**

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Jobs and Prosperity		√	
3	Environmental Sustainability		√	
4	Health and Well-Being		√	
5	Children and Young People		√	
6	Creating Safe Communities			√
7	Creating Inclusive Communities	√		
8	Improving the Quality of Council Services and Strengthening Local Democracy	√		

**Reasons for the Recommendation:**

The decision of the Cabinet has been called in. The Overview and Scrutiny Committee is required to consider the concerns raised by Councillors

**What will it cost and how will it be financed? N / A**

**Implications: N/A**

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

<b>Legal:</b> There are no legal implications arising from the contents of this report	
<b>Human Resources</b>	
<b>Equality</b>	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

**Impact on Service Delivery: N/A**

**What consultations have taken place on the proposals and when?**

The Head of Corporate Finance and ICT notes there are no direct financial implications arising from this report ( FD 2180/13)

The Head of Corporate Legal Services has no comments on this report because the contents of the report have no legal implications (LD 1496/13:).

**Are there any other options available for consideration?** Options are set out in the report

**Implementation Date for the Decision** will be determined by the decision of the Overview and Scrutiny Committee.

**Contact Officer:** Ruth Harrison

**Tel:** 0151 934 2042

**Email:** [ruth.harrison@sefton.gov.uk](mailto:ruth.harrison@sefton.gov.uk)

**Background Papers:**

None

### **3.0 Details Relating to the Call In**

3.1 The following reports and documents were considered and agreed by the Cabinet on 14<sup>th</sup> February 2013:-

- Report with addendum note (Appendix 1 and 2);
- Presentation brief from a town planning consultant (Appendix 3);
- Supplementary Planning Document (SPD, Appendix 4) with Appendix A to E attached to this report; and
- Table of Comments (Appendix 5).

3.2 The decision of the Cabinet is set out as follows:

#### **Decision Made:**

The supplementary planning document be approved subject to the insertion of the following text before table 3 in the document, to provide clarity on where the size standards in the table apply:

“These minimum standards will apply to all self-contained flats whether the development is part of a HMO (Use Classes C4 or Sui Generis HMO) or part of a scheme consisting entirely of self-contained flats (Use Class C3)”.

#### **Reasons for Decision:**

To adopt the supplementary planning document for decision making for Planning applications and enforcement purposes.

#### **Alternative Options Considered and Rejected:**

None.

**Cabinet - 28 February 2013**

At the above Meeting the following amendment to the minutes was agreed:-

**Decision Made:**

That the minutes of the Cabinet meeting held on 14 February 2013 be confirmed as a correct record subject to the resolution in Minute No. 111 being amended by the addition of the following text in the supplementary planning document:

“The Council will look favourably upon applications for one bedroom flats where previously they have been discouraged”.

- 3.3 The following Members of the Council (who are not Members of the Cabinet) signed the requisition for call in, in accordance with the provisions of the Overview and Scrutiny Committee Procedure Rules, Part 4 of the Councils Constitution.

Councillor Dorgan  
Councillor McIvor  
Councillor Papworth

- 3.4 In the requisition for call in the following reason was given:

The decision contravenes sub-paras (b) and (c) of Para 40 of Chapter 6 of the Council's Constitution; in other words, that the Cabinet decision is unsound, being based on facts not taken into account, and would lead to very unwise future decisions by the Council. In particular:

a. Cabinet was advised that ample consultation had taken place; this is disputed by my constituent, who is the largest provider of HMO's in Sefton, and who also represents a considerable number of other landlords. He had about 10 minutes in which to read and comment on the SPD.

b. The Supplementary Planning Document seeks to impose the same rules on HMO's as on flats. This seems unwise, as the two regimes are subject to different rules re Building Regulations, Environmental Health, Licensing and Benefits.

c. Disabled access to HMO's is usually impossible, as there are no lifts.

d. The conditions about roof-lights and windows in HMO's are unworkable and wholly unnecessary.

e. Whilst noise insulation in a flat is of course desirable, to provide it in an HMO means insulating each room separately, which would be prohibitively costly.

f. The document appears to rule out the use of terraces as HMO's, which seems to limit their development for no good reason.

g. The requirement for S.106 funds of over £1,500 per HMO is excessive. Altogether, the SPD appears likely to put the Council at a considerable disadvantage (at precisely the moment when Liverpool is easing its conditions!), by making the development of HMO's financially unviable, and thus decimating the supply of new affordable housing. My constituent already has a substantial record of successful appeals against Planning decisions, and would far prefer to

assist the Council by taking part in genuine consultations before a revised SPD is prepared. "

3.5 The constitution sets out the following requirements with respect to Call In:

"All requisitions for call-in shall refer to a specific decision and provide a reason. A decision may only be the subject of one call-in. A decision may only be called-in for the following purposes:

- a) to seek more understanding of the decision and its implications;
- b) to question the soundness of the decision based on facts taken or not taken into account;
- c) to identify the need for Council policies to guide decisions;
- d) to make recommendations to the Cabinet and/or Council;
- e) to question whether the decision conforms with agreed policies."

Members are asked to consider the requisition cited above (paragraph 3.4) and determine which ground or grounds apply to the requisition, if any. If the Committee determines that the requisition falls within one of the grounds, then it can proceed to consider whether it is concerned with the decision.

3.6 The Secretary of State in his guidance recommends that the Overview and Scrutiny Committees should only use the power to refer matters to the full Council if they consider that the decision is contrary to the policy framework or contrary or not wholly in accordance with the budget.