

Subject:	Citywide Article 4 Direction - Houses in Multiple Occupation		
Date of Meeting:	16 January 2020		
Report of:	Executive Director, Economy, Environment & Culture		
Contact Officer:	Name:	Steve Tremlett	Tel: 01273 292108
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Ward(s) affected:	(All Wards);		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The report seeks authorisation to confirm a citywide Article 4 Direction, excluding that part of the city within the South Downs National Park, which will have the effect of removing permitted development rights, which allow changes of use from dwellinghouses, i.e. family homes, (Use Class C3) to small Houses in Multiple Occupation (Use Class C4). This will replace the existing Article 4 Direction confirmed in 2013 which covers the wards of Hanover and Elm Grove, Hollingdean and Stanmer, Moulsecoomb and Bevendean, Queen's Park and St. Peter's and North Laine.
- 1.2 The Article 4 Direction is attached to the report in Appendix 2 with a map showing its extent in Appendix 3.

2. RECOMMENDATIONS:

- 2.1 That the Committee notes the representations made during the consultation period.
- 2.2 That the Committee authorises the confirmation of the Direction made under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 to remove permitted development rights relating to changes of use from a C3 dwellinghouse to a C4 small HMO.
- 2.3 That the Committee authorises the making of a Direction ("the Cancellation Direction") cancelling the existing Article 4 Direction confirmed in 2013 within the wards of Hanover and Elm Grove, Hollingdean and Stanmer, Moulsecoomb and Bevendean, Queen's Park and St. Peter's and North Laine as these wards will be covered by the new citywide Direction.
- 2.4 That the Committee authorises the Head of Planning to confirm the Cancellation Direction subject to the consideration of any representations received on the same.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 An Article 4 Direction that removes permitted development rights relating to changes of use from use class C3 (dwellinghouse) to use class C4 (small HMO) has been in place since 2013 in five wards of the city, listed in paragraph 2.3 above. Changes of use to larger HMOs do not benefit from permitted development rights and already require planning permission anywhere in the city.
- 3.2 At the June 2018 meeting, the Tourism, Development & Culture Committee (TDC) supported an evidence gathering exercise to assess the impact of HMOs in areas of the city outside the existing Article 4 Direction area due to growing concern from local communities about the impacts of increasing numbers of HMOs in other areas of the city. A recommendation was approved that following the evidence review, a report be brought back to that Committee with a recommendation on whether and where to extend the Article 4 Direction that removes the permitted development rights relating to changes of use from dwellinghouses to small HMOs.
- 3.3 Consequently a report was brought to the January 2019 meeting of TDC Committee setting out the evidence reviewed which was considered to support an extension to the existing Article 4 Direction area. A recommendation to progress a citywide extension was agreed by the Committee. In summary the key factors supporting this approach were:
- The presence of significant numbers of HMOs outside this area, including some pockets with very high concentrations;
 - To provide a proactive strategic approach to HMO management in the city, providing long-term certainty for developers and communities by avoiding the need for further reactive extensions
 - Avoidance of a 'cliff-edge' scenario where streets immediately adjacent to the boundary of an Article 4 Direction area attract higher levels of HMO development due to planning permission not being required;
 - The expectation that much of the future additional demand for HMO accommodation will stem from non-student groups who are likely to be more flexible over the location of their accommodation, rather than the historic focus on accommodation occupied by students in the Lewes Road area.
- 3.4 The Committee supported the report's recommendation and authorised the making of citywide non-immediate direction under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) to remove the permitted development right for the change the use of a building from a dwelling house (Class C3) to a House in Multiple Occupation (Class C4). The Direction was subsequently made on 3 June 2019. As the Direction is non-immediate, it does not come into force for a year and is subject to confirmation by the Committee following a minimum three week consultation period and no intervention from the Secretary of State. The Secretary of State was notified at the time the Direction was made in June 2018 and has not indicated an intention to use his powers to modify or cancel the Direction.
- 3.5 If confirmed, the citywide Direction would come into force on 3 June 2020 and would duplicate the Article 4 Direction made in 2013. The 2013 Direction should

therefore be cancelled from the date the citywide Article 4 Direction comes into effect.

Consultation

- 3.6 Consultation on the proposed Article 4 Direction took place for a six week period from 3 June to 8 July 2019. A total of 261 responses were received, of which 95% of respondents were Brighton & Hove residents, 3% organisations, businesses or landlords, or agents acting on their behalf. 92% of the overall responses were in favour of the Direction being confirmed.
- 3.7 Postcodes of those responding were recorded and are illustrated on the map in Appendix 4. Markers in blue indicate those who were not in favour of the Article 4 Direction being confirmed. It can be seen there is a wide geographical spread of respondees, with responses not solely received from residents in areas where HMOs proliferate, although there are some concentrations in communities such as the Bristol Gardens and Argyle Road areas from where petitions had previously been received on this issue.
- 3.8 The most commonly stated reasons for supporting the proposal were:
- The negative effect of HMOs on local amenity (for example noise and other anti-social behaviour)
 - Negative effect on the character of neighbourhoods
 - Lack of family housing in the city
- 3.9 Points of objection included:
- The need to maintain more affordable housing (e.g. for young professionals/ minimum wage earners);
 - The proposals would discriminate against people who have no choice but to live in HMOs;
 - HMOs are stigmatised by a perception they are only inhabited by students.
- 3.10 A full summary of representations made and officer's responses is set out in Appendix 1.
- 3.11 In response to the objections, it is important to note that an extension of the Article 4 Direction will not, and is not intended to, halt further HMO development. Rather, the Direction and the current and emerging City Plan policies would give the city council greater ability to better manage the outcome of change of use applications across the city through the planning process in order to help maintain balanced and sustainable communities. It would also allow the consideration of other planning matters such as the standard of living for future occupiers which cannot be considered through the planning process where permitted development rights apply. The intended result is a more even spread of HMOs. In those parts of the city where there are low HMO concentrations it is expected that the number of applications will be relatively low, and those that are received are likely to be approved.
- 3.12 The consultation demonstrates very strong support for the confirmation of the Article 4 Direction.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The alternative option is not to confirm the Article 4 Direction. This would mean that permitted development rights for changes of use from a C3 dwellinghouse to a C4 small HMO would remain in place in that area of the city outside the existing Article 4 Direction. The council would have little control over the proliferation of HMOs in this area which could result in a negative impacts

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The June 2018 report supporting an evidence gathering exercise on this issue was, in part, a response to a petition submitted to the Committee in January 2018 entitled "Petition to restrict number of HMOs on Bennett Road, Bristol St and Princess Terrace and preserve our lovely community spirit which is alive and well". A response to the petition was given to TDC at that time.
- 5.2 A letter was received from Councillors Morgan, Platts and Mitchell in support of East Brighton Ward being evaluated for coverage by an Article 4 Direction in order to better manage the spread of Houses in Multiple Occupation (HMOs) in the area. The letter noted the concern of local residents regarding increasing numbers of HMOs in that area.
- 5.3 Correspondence had also been received from the Argyle and Campbell Roads Residents' Association expressing concern over the impact of HMO proliferation in that area of the city. Further correspondence was received from members representing communities in Withdean ward and the Robertson Road area in Preston Park ward.
- 5.4 Following the making of an Article 4 Direction, a consultation period took place for six weeks, in excess of the minimum of 21 days required by the Town and Country Planning (General Permitted Development) (England) Order 2015. Strong support was demonstrated for the confirmation of the Direction.

6. CONCLUSION

- 6.1 Evidence previously presented to the TDC Committee was considered to justify a citywide extension to the Article 4 Direction relating to HMOs. Consultation responses indicate strong support for the proposal and the Secretary of State has not indicated an intention to intervene. It is therefore considered appropriate to confirm the Direction.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 There are no direct financial implications resulting from this report. It is assumed that the service impact of, for example, additional planning applications resulting from confirming the Article 4 Direction will be contained within existing planning services revenue budgets. This will be reviewed and monitored as part of budget monitoring and setting.

Finance Officer Consulted: Jess Laing

Date: 05/11/2019

Legal Implications:

- 7.2 The Citywide Article 4 Direction has been made and advertised in accordance with the Town and Country Planning (General Permitted Development) (England) Order 2015. That Order requires that in deciding whether to confirm a direction, the LPA must take into account any representations received during the publicity period.
- 7.3 As noted above, if Committee agree the recommendation to confirm the Citywide Article 4 Direction, the Direction made in 2013 will be redundant as being duplicated in the wider Direction. The legislation specifies that a direction can be cancelled by a subsequent direction, although in this case, of course, the restrictions contained in the 2013 Direction will continue to apply, albeit in the Citywide Direction. The same procedure applies to the making of a cancellation direction as applies to a direction removing permitted development rights. Accordingly the Cancellation Direction will need to be advertised and any representations will need to be taken into account in considering whether to confirm the Direction.

Lawyer Consulted: Hilary Woodward

Date: 8/11/19

Equalities Implications:

- 7.4 Concerns were raised during the consultation about the effect of a city wide Article 4 Direction on the availability of low cost housing and a consequent negative effect on younger people and those on lower incomes. However the measure will not cap HMO development in the city, rather it is intended to ensure a more even distribution and to avoid negative impacts associated with high concentrations

Sustainability Implications:

- 7.5 Confirming the Article 4 Direction will help the Local Planning Authority to better manage the distribution of HMOs in order to better maintain sustainable, balanced communities.

Any Other Significant Implications:

- 7.6 None identified.

SUPPORTING DOCUMENTATION

Appendices:

1. Summary of Representations
2. Article 4 Direction
3. Article 4 Direction Map
4. Map Showing Postcodes of Respondents

Background Documents

1. None