

Subject:	Article 4 direction – Houses in Multiple Occupation		
Date of Meeting:	15 March 2012		
Report of:	Strategic Director, Place		
Lead Cabinet Member:	Cabinet Member for Planning, Employment, Economy & Regeneration		
Contact Officer:	Name:	Hamish Walke	Tel: 29-2382
	Email:	hamish.walke@brighton-hove.gov.uk	
Key Decision:	Yes	Forward Plan No: 27877	
Ward(s) affected:	Hanover and Elm Grove, Hollingdean and Stanmer, Moulsecoomb and Bevendean, Queen’s Park and St Peter’s and North Laine		

FOR GENERAL RELEASE/ EXEMPTIONS**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The report seeks authorisation for making an article 4 direction to remove permitted development rights under planning legislation for changes of use from dwellinghouses (Class C3) to Houses in Multiple Occupation (Class C4). This means that a planning application would be required to carry out such changes of use. It would provide control over the increased concentration of Houses in Multiple Occupation (HMOs) in established residential areas and also reflects the Student Housing Strategy. The five wards proposed for inclusion within the article 4 area are Hanover and Elm Grove, Hollingdean and Stanmer, Moulsecoomb and Bevendean, Queen’s Park and St Peter’s and North Laine. The proposed article 4 direction is in Appendix 1.

2. RECOMMENDATIONS:

- 2.1 That the Cabinet authorises the making of a non-immediate direction under article 4 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) to remove the permitted development right to change the use of a building from a dwelling house (Class C3) to a House in Multiple Occupation (Class C4) for the reasons outlined in this report.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Town and Country Planning (Use Classes) Order 1987 classifies the use of land and buildings for planning purposes. In April 2010, the Order was amended to introduce a new C4 use class defining small Houses in Multiple Occupation. These are properties occupied by up to six people who do not “live together as a single household.” On 1 October 2010, the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2010 came into force. This introduced a permitted development right allowing the

change of use of a building from a single house (C3) to a House in Multiple Occupation (C4) without the need to make a planning application.

- 3.2 Local planning authorities have powers to make an article 4 direction to remove permitted development rights. Guidance on the use of article 4 directions was published by the Department for Communities and Local Government in November 2010.¹ It states that local planning authorities should only consider article 4 directions where the use of the permitted development rights would “*harm local amenity or the proper planning of the area*” and where there is evidence to identify that potential harm.
- 3.3 Houses in Multiple Occupation provide an affordable type of accommodation, both for students and other residents of the city. In Brighton and Hove, privately rented accommodation and HMOs represent a far higher proportion of the housing market than the national average.
- 3.4 The designation of the C4 use class reflected growing recognition that HMOs can have particular effects upon their surroundings and that, in some areas with high concentrations, harmful impacts can result. Central government research into issues associated with HMOs summarised the key concerns as being:
- *anti-social behaviour, noise and nuisance*
 - *imbalanced and unsustainable communities*
 - *negative impacts on the physical environment and streetscape*
 - *pressures upon parking provision*
 - *increased crime*
 - *growth in private rented sector at the expenses of owner-occupation*
 - *pressure upon local community facilities; and*
 - *restructuring of retail, commercial services and recreational facilities to suit the lifestyles of the predominant population.*²
- 3.5 A mapping exercise has been undertaken to identify concentrations of HMOs and student housing in Brighton and Hove, which was reported as a City Plan background study in February. The maps are included as Appendix 2 to this report and show clear concentrations within certain parts of the city. The maps show the proportions, by street, of properties that are either licensed HMOs or occupied by students claiming Council Tax exemption. The areas of concentration run along the Lewes Road and cover the wards of Hanover and Elm Grove, Hollingdean and Stanmer, Moulsecoomb and Bevendean, Queen’s Park and St Peter’s and North Laine. The Student Housing Strategy identified five key neighbourhoods in which students are concentrated. These are Bevendean, Coombe Road, Hartington Road and Triangle, Hanover and Hollingdean, which fall within the wards shown in Appendix 2.

¹ Replacement Appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 1995.

² Evidence Gathering: Housing in Multiple Occupation and possible planning responses - Final Report DCLG (September 2008)

- 3.6 The student population and the educational establishments contribute very positively to the life of Brighton and Hove, both economically and culturally. There are approximately 37,000 students at Sussex and Brighton universities, which represents a significant increase on the 25,589 students in 1995-96. In addition, there are many students attending other educational establishments, such as Brighton Institute of Modern Music and the language schools. Whilst having many beneficial impacts, the significant increase in student numbers within the city over the last decade has also been one of the causes of increased concentrations of HMOs in parts of the city. In recognition of this and other student accommodation issues, the council worked in partnership with the Universities and other education providers to develop the Student Housing Strategy.
- 3.7 The Student Housing Strategy sets out a range of actions through which students can be sustainably accommodated within the city in high quality accommodation. Strategic Goal 1 of the Student Housing Strategy seeks:
- “To ensure effective management and support housing and populations within HMO-dominated studentified neighbourhoods, using an area-based approach.”*
- The Strategy also includes a commitment to encouraging the provision of new purpose built student accommodation within the city.
- 3.8 The Student Housing Options Paper published by the Council in October 2011 identified two preferred options. One was to adopt an article 4 direction and policy framework to manage HMO accommodation and the other was to prepare a pro-active policy to identify sites for purpose built student accommodation. The council is keen to work with education providers and students to meet and manage these accommodation needs.
- 3.9 As set out in paragraph 3.4, the issues related to concentrations of HMOs can include increased noise disturbance, refuse, litter and flytipping problems, higher burglary and crime rates and increased parking demand and congestion. On a ward basis, Environmental Health records show that the five above wards, together with one Hove ward, generated the highest numbers of noise complaints relating to music, parties, television and people noise in 2011. These wards are also all in the six wards with the highest number of complaints about refuse in gardens and on the street for 2011. Across the city, other changes can involve the loss of family and community facilities and changes to retail areas (such as increased numbers of takeaways and off licences). Visually, changes can involve the proliferation of ‘To Let’ boards and poorer upkeep of garden areas. In terms of tenure and population, the changes can increase densities and involve a shift from owner occupation to private rented accommodation.
- 3.10 Planning officers have worked closely with housing officers and other colleagues in gathering evidence and consulting in relation to HMO issues. The proposed article 4 direction would, in conjunction with other proposals such as additional HMO licensing, allow the council to address problems associated with the concentration of HMOs and to manage their location and operation more effectively.

- 3.11 It is recommended that a non-immediate direction is used, which comes into force twelve months after it has been made. A non-immediate direction would allow all consultation views to be taken into account before the direction was confirmed. It would also allow the council to gather further evidence, including that provided by landlords, the university and students involved in the consultations. This would also reduce or eliminate the likelihood of compensation being payable. The use of an immediate direction could result in considerable compensation implications. It is not considered that the use of permitted development rights over the twelve months of the consultation is likely to have a significant impact given the existing number and concentrations of HMOs in the city.
- 3.12 In addition, an article 4 direction needs to be used in conjunction with a related policy setting out how planning applications would be assessed. A policy is being developed as part of the City Plan, but this will not be agreed for submission until December 2012. This timescale relates well to the proposed implementation of a non-immediate article 4 direction.
- 3.13 The intention of the article 4 direction and the related policy would not be to halt future changes of use. Rather, the direction and the policy would give the city council control of over-concentration of HMOs through the planning process to help maintain balanced and sustainable communities. It would also allow controls, through the use of planning conditions on issues such as refuse, recycling and cycle storage, to address some of the harm arising from such uses. The article 4 direction would not apply retrospectively to existing HMOs.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

- 4.1 The proposed consultations accord with the aim of the Community Engagement Framework and Standards to ensure the effective representation of communities in local and citywide strategic planning and decision-making.
- 4.2 Consultation around this issue has already taken place through the Student Housing Strategy and the Student Housing Options Paper. The Student Housing Strategy drew on a survey of 350 households carried out by the University of Brighton in 2008-09. The survey found that most residents had perceived a change in their area due to increasing student populations and that these raised management challenges relating to issues such as refuse collection and noise nuisance. Residents also recognised the positive impact that students can have and supported the production of a student housing strategy. More recently the Planning Strategy and Project team consulted on the Student Housing Options Paper. One of the proposed options was the implementation of an article 4 direction. Of the respondents, thirteen expressed support for an article 4 direction and four objected.
- 4.3 The Private Sector Housing team is currently consulting on proposals to extend HMO licensing in the same wards as the proposed article 4 direction. Planning and Housing officers have been working closely on these proposals.
- 4.4 Following the making of an article 4 direction, a statutory consultation period will commence for a minimum of 21 days. After assessment of the responses, the council will decide whether to confirm the direction. In addition to the statutory

local advertisement and site notices, direct consultation will be undertaken with specific interested parties. These include the universities and other educational establishments, student unions, landlords' organisations, estate and letting agents, residents groups and student accommodation providers. Consultation details will also be published on the council's website.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The costs of making the article 4 direction will be met from the existing Planning Strategy and Projects and Development Control revenue budgets. If the article 4 direction is confirmed, it would mean that no fee would be payable for planning applications for a change of use arising as a result of the removal of permitted development rights.

Finance Officer Consulted: Karen Brookshaw Date: 16/02/12

Legal Implications:

- 5.2 Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) allows local planning authorities to make Directions withdrawing permitted development rights where the authority considers it expedient that development should not be carried out unless express planning permission has been obtained for the same. Government Guidance contained in Circular 9/95 (as amended) advises that article 4 directions should be made only in those exceptional circumstances where evidence suggests that the exercise of permitted development rights would harm local amenity or the proper planning of the area. Once made the Article 4 Direction will need to be advertised and, in considering whether to confirm the Direction, the planning authority must take into account any representations made during the consultation period.
- 5.3 No adverse human rights implications are considered to arise from the Report.

Lawyer Consulted: Alison Gatherer Date: 20/02/12

Equalities Implications:

- 5.3 The council would have enhanced controls to help deliver balanced communities. These measures may impact upon the availability of affordable housing for younger people. To reduce the adverse impact upon this group further evidence and consultation will be seek to refine the measures to reduce adverse impacts through complementary policy provisions (e.g. purpose built student housing).

Sustainability Implications:

- 5.4 Making an article 4 direction would help the local planning authority to control the location of HMO uses in order to achieve sustainable, mixed and balanced communities and patterns of urban development.

Crime & Disorder Implications:

5.5 None identified.

Risk and Opportunity Management Implications:

5.6 None identified.

Public Health Implications:

5.7 This measure is aimed at maintaining mixed and balanced communities, reducing the likelihood of anti-social behaviour, noise and nuisance and negative impacts on the physical environment and streetscape, all of which may impact upon the mental and physical welfare of residents.

Corporate / Citywide Implications:

5.8 A policy on student housing/Houses in Multiple Occupation will be included within the City Plan. This policy will set out the framework by which any planning applications arising from an article 4 direction would be assessed. Planning officers have been working closely with colleagues in housing, as there are close links with the proposed changes to the licensing of Houses in Multiple Occupation and other measures identified in the Student housing strategy.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

6.1 The alternative option is not to make an article 4 direction. This would retain the current situation that a planning application is not required to change the use of a dwelling house (C3) into a House in Multiple Occupation (C4). The local planning authority would have no control over resultant increases in concentration of HMOs.

7. REASONS FOR REPORT RECOMMENDATIONS

7.1 An article 4 direction would, if confirmed, provide a tool to help manage the concentration of HMO accommodation within certain parts of the city.

SUPPORTING DOCUMENTATION

Appendices:

1. Proposed article 4 direction
2. Student Housing and HMO concentration maps for Hanover and Elm Grove, Hollingdean and Stanmer, Moulsecomb and Bevendean, Queen's Park and St Peter's and North Laine electoral wards

Documents in Members' Rooms

None

Background Documents

1. Guidance Note on planning legislation for Houses in Multiple Occupation (http://www.brighton-hove.gov.uk/downloads/bhcc/Website_HMO_guidance_-_October_2010.pdf)

2. Student Housing Options Paper – October 2011 (http://www.brighton-hove.gov.uk/downloads/bhcc/planning_strategy/City_Plan_Student_Housing_Option_Paper.pdf)
3. Student Housing and Houses in Multiple Occupation Concentration Assessment – December 2011 (http://www.brighton-hove.gov.uk/downloads/bhcc/ldf/Student_Hsg_Study-Draft_for_CMM_with_maps_12-01-12.pdf)
4. Student Housing Strategy 2009-2014 (http://www.brighton-hove.gov.uk/downloads/bhcc/Brighton_and_Hove_Student_Housing_Strategy_Jan_2010.pdf)

APPENDIX 1 – ARTICLE 4 DIRECTION

BRIGHTON & HOVE CITY COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995

DIRECTION MADE UNDER ARTICLE 4(1) TO WHICH ARTICLE 5 APPLIES

WHEREAS Brighton & Hove City Council being the appropriate local planning authority within the meaning of article 4(4) of the Town and Country Planning (General Permitted Development) Order 1995, are satisfied that it is expedient that development of the description(s) set out in the Schedule below should not be carried out on the land shown edged/coloured red on the attached plan (being the whole of the land comprised in the Hanover and Elm Grove, Hollingdean and Stanmer, Moulsecoomb and Bevendean, Queen's Park and St Peter's and North Laine electoral wards in the City of Brighton & Hove), unless planning permission is granted on an application made under Part III of the Town and Country Planning Act 1990 as amended.

NOW THEREFORE the said Council in pursuance of the power conferred on them by article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 hereby direct that the permission granted by article 3 of the said Order shall not apply to development on the said land of the description(s) set out in the Schedule below:

SCHEDULE

Development consisting of a change of the use of a building to a use falling within Class C4 (houses in multiple occupation) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 from a use falling within Class C3 (dwellinghouses) of that Schedule being development comprised within Class I (b) of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 and not being development comprised within any other Class.

Made under the Common Seal of
Brighton & Hove City Council
thisday of.....20.....

The Common Seal of the Council
was affixed to this Direction in the presence of

.....
Authorised Officer

APPENDIX 2 – STUDENT HOUSING AND HMO
CONCENTRATION MAPS

