



Sponsor: Councillor Shiraz Khan Cabinet  
Member for Housing, Property and Regulatory  
Services  
Director of City Growth and Vibrancy

## **ITEM 10**

Author: Chief Planning Officer

### **Houses in Multiple Occupation: Proposed Article 4 Direction**

#### **Purpose**

- 1.1 To update on work to put in place local controls through the Planning system to manage the creation of Houses in Multiple Occupation.
- 1.2 To enable the review of Houses in Multiple Occupation (HMOs) to progress to next the stage where an Article 4 Direction is proposed to control concentrations.

#### **Recommendations**

- 2.1 To note that, based on an assessment of the evidence provided, local controls are pursued through the establishment of an Article 4 Direction for the City centre area as defined by the plan (Appendix 1).
- 2.2 To delegate approval to the Chief Planning Officer to make a direction under article 4 of the General Permitted Development Order as amended (Article 4(1), GPDO 2015) so that development consisting of a change of use of a building within Class C4 from a use falling within Class C3, as defined by accompanying plans, should not be carried out unless permission is granted for it on application under Part 3 of the Town and Country Planning Act 1990.
- 2.3 To delegate approval to the Chief Planning Officer to carry out the statutory procedure for making the Article 4(1) direction including the necessary consultation procedure, informing Cabinet of the consultation responses.
- 2.4 To note that the notice, when making the Direction, will specify that the Direction is not intended to come into force until 12 months after it has been confirmed by the Council.
- 2.5 That a Supplementary Planning Document which sets out how Planning will approach applications from Class C3 to C4 is developed, consulted on in accordance with the Statement of Community Involvement, and adopted before the Article 4 direction comes into force.

## **Reasons**

- 3.1 Progressing an Article 4 direction will give the Local Planning Authority the ability to properly consider the implications of all new HMOs that are created, avoid excessive concentrations of HMOs in particular areas and continue to monitor their distribution and effects on the wider area. Approval of the recommendations in this report will establish delegated authority to the Chief Planning Officer to progress with the statutory process and consultation required to establish these local controls of HMOs
- 3.2 The process includes a 12-month period between making the Direction and the Direction coming into force, in other words a notice period. This 12-month notice period ensures there is no compensation payable to affected property owners.

## **Supporting information**

### **Background**

- 4.1 To meet a growing demand for short term housing accommodation there has been an increase in flats / bedsits with a proliferation of such uses in the inner city areas where terraced properties proliferate. This often results in the conversion of a terraced property into six bedsits or a HMO without the need to seek planning permission. The effects of such an intensification of the use are explored later at 4.6 below.
- 4.2 In 2010 national planning regulations allowed the conversion of Use Class C3 housing (ordinary domestic housing) to C4 (small houses of multiple occupation). This change does not require planning permission.

Use Class C4 properties are defined as 'shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.' In the years since the change, especially in certain areas of Derby, there has been a significant growth in the number of small houses of multiple occupation

- 4.3 A Derby City Council Motion was passed in September 2022 relating to Houses in Multiple Occupation in Derby. The motion was brought in response to community concerns, expressed through their elected Councillors, regarding the increase in the number of Houses in Multiple Occupation enabled by changes to planning regulations in 2010.

### **Local controls: An Article 4 Direction**

- 4.4 HMO permitted development rights can be removed by the local planning authority with an Article 4 Direction. The National Planning Policy Framework advises that all Article 4 Directions (A4D) should be applied in a measured and targeted way. They should be based on robust evidence and applied to the smallest geographical area possible. An A4D should be limited to where it is necessary to protect local amenity or the well-being of the area. An A4D requires approval from the Secretary of State.
- 4.5 An A4D means that a particular development cannot be carried out under permitted development and therefore needs a planning application. This gives a local planning

authority the opportunity to consider a proposal in more detail. It does not provide a 'blanket ban' on such uses.

- 4.6 The Government report 'Evidence Gathering – Housing in Multiple Occupation and Possible Planning Responses' (CLG 2008) looks at the problems caused by high concentrations of Houses in Multiple Occupation and considers the current and potential mechanisms to address these problems. The report does not define what concentration of HMOs would trigger these issues, but suggests they could include:
- 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
  - restructuring of retail, commercial services and recreational facilities to suit the lifestyles of the predominant population
- 4.7 The advantage of gaining local control through the planning system over this form of development would help to improve the quality of new small HMOs. Conversions which are likely to cause harm to the character of neighbourhoods, or amount to overdevelopment of this housing type in a particular location could be refused.

#### **Evidence gathered in Derby**

- 4.8 Following the Council resolution in September 2022, Council officers have investigated the concerns raised by Members, to test the evidence provided and consider the likelihood of success of an A4D proposal.
- 4.9 The conclusion is that there is evidence of planning harm from existing small HMO developments. There would be an advantage, in planning terms, in gaining further control of this form of development. Robust evidence is important because the final approval is with the Secretary of State.
- 4.10 What has been established through the evidence provided, is that there are many localised complaints. This includes car parking and antisocial behaviour (including crime, noise nuisance and accumulation of refuse) as the main external impacts, particularly where there were high concentrations of HMO property. Such licenced properties are prevalent within the proposed Area, yet the number of unlicenced HMO is unknown.

Some of these issues could potentially be mitigated at the design stage through requiring planning permission to be sought. This would allow, for example, refusal of small HMOs where their impact or concentration would be unacceptable and allow the imposition of conditions limiting noise, requiring adequate parking and bin storage and seeking to ensure future HMOs conversions are suitable for that purpose. It may be that the quality of small HMOs will improve if planning permission is required, since developers will then know they are sensitive and will seek to comply with other regulations for this form of development.

- 4.11 It is important to underline that this doesn't mean that new small HMOs would not be permitted in these areas. It will simply gain planning control over these changes of

use. Only development, which is not in accordance with the Development Plan, once appropriate conditions are considered, could be refused.

- 4.12 To allow flexibility depending on the circumstances of the proposed change and consider the harms which the Government and our evidence based approach has identified in concentrations of HMOs, we could offer the guidance going forwards such as:

*“In Derby City to support mixed and balanced communities, planning permission will be granted for proposals for use class C4 small Houses in Multiple Occupation or sui-generis large Houses in Multiple Occupation, provided that:*

- a. The granting of planning permission will not result in the creation of more than 20% HMOs within 200m of the site area; AND*
- b. The proposal does not have an adverse impact on the amenity of nearby properties by ensuring: adequate provision for off street parking; highway safety and ease of access for emergency vehicles; regard is given to Secured by Design guidance, particularly relating to occupier security; sufficient provision for waste and recycling; the proposal is in keeping with the character of the area; and, the proposal is not likely to lead to an increase in antisocial behaviour”*

- 4.13 We have the locational evidence of all our licenced HMO properties and when evidence of refuse accumulation statistics, noise nuisance and ASB complaint plus crime statistics are overlayed there is a correlation. These conclusions are supported by evidence provided by councillors which also confirmed that parking complaints are significant in such locations. This has led to the area defined as existing HMOs concentrations appear to generate these issues. The Area for the A4D controls is quite large but covers those areas with these key characteristics mindful that in other councils tightly drawn Areas have just pushed the problem further outside the Area.

### **Next Steps**

- 4.13 Public consultation would take place following cabinet approval to residents within the suggested A4D area. Following the closure and assessment of that consultation the Secretary of State would be notified of the Councils intended course of action.
- 4.14 The Local Plan is being refreshed and new planning policy could be introduced. Alongside an A4D, a Supplementary Planning Document (SPD) would need to be consulted on, which draws on and explains the policy regarding these applications. It cannot of itself however create new policy.

### **Public/stakeholder engagement**

- 5.1 None – public consultation would take place once the Cabinet had declared its way forwards. Once the Direction is made.

## Other options

- 6.1 To do nothing is not an option given the evidence provided. The creation of an Article 4 direction area would enable the council more controls over the suitability of premises through the planning process – a practice which is currently not available to us.

## Financial and value for money issues

- 7.1 The process and the necessary Supplementary Planning Document will be undertaken during the 12 month period taken for the A4D to formally come into effect.
- 7.2 There would be a small income gain received from the increase in planning applications received from this action.

## Legal implications

- 8.1 The Government has provided the legislative framework under article 4 of the General Permitted Development Order as amended (Article 4(1), GPDO 2015) to enable an A4D to be applied.

## Climate implications

- 9.1 Providing extra controls will enable, through the planning processes, better planning for an equitable community getting the right development in the right location. The A4D has no ability to influence energy efficiency or biodiversity but can influence improved waste storage which is one of the social impacts felt from the current unregulated approach.



## **Socio-Economic implications**

- 9.2 Adding a level of control to the currently unregulated proliferation of small HMO properties will drive to the heart of the problems being experienced in our communities. Suitable properties in the right location secured through proper assessment will benefit existing and future residents enabling the growth of such accommodation to be assimilated into existing communities rather than imposed in large concentrations which attracts its own social challenges as evidenced in this report.

## **Other significant implications**

### **Equalities Impact**

- 10.1 By bringing in A4D controls allows assessment of equalities through each application to be made that otherwise would not be possible if the proliferation remains uncontrolled.

## **This report has been approved by the following people:**

<b>Role</b>	<b>Name</b>	<b>Date of sign-off</b>
<b>Legal</b>	Olu Idowu, Head of Legal Services	
<b>Finance</b>		
<b>Service Director(s)</b>		
<b>Report sponsor</b>	Tammy Whitaker, Director of City Growth and Vibrancy	
<b>Other(s)</b>		
<b>Background papers:</b>		
<b>List of appendices:</b>	<ul style="list-style-type: none"><li>• Proposed Article 4 area</li></ul>	

Appendix 1

Proposed Article 4 area



