

COUNCIL CABINET

9 October 2024



Report Sponsors: Cabinet Member for Housing,
Strategic Planning and Regulatory Services;
Director of City Growth and Vibrancy
Report Author: Chief Planning Officer

ITEM 09

Houses in Multiple Occupation Article 4 (1) Direction 2024

Purpose

- 1.1 To reflect on the representations received in respect of the necessary publicity in order to decide whether to confirm the Article 4 Direction under the Town and Country Planning (General Permitted Development) Order 2015.
- 1.2 To note and consider the responses to the consultation undertaken for the proposed Article 4 Direction and then to decide whether to confirm the direction.

Recommendations

- 2.1 To consider the responses and then to deciding to confirm the direction in respect of the proposed Article 4 Direction for the City central area as defined by the plan at Appendix 1 and as summarised in Appendix 2 the full responses can be accessed here [Article 4 Direction responses - OneDrive \(sharepoint.com\)](#).
- 2.2 To confirm that the Houses in Multiple Occupation Article 4 (1) Direction 2024 shall come into force, on 3 May 2025.
- 2.3 To instruct the Chief Planning Officer to continue to carry out the statutory procedure for confirming the Article 4(1) direction including notification to the Secretary of State to implement the Article 4 Direction
- 2.4 To note that a Planning Guidance Document will be developed setting out the planning policy approach for applications from Class C3 to C4. This document will be consulted on in accordance with the Statement of Community Involvement and referred to Cabinet for approval before the Article 4 Direction comes into force.
- 2.5 To endorse the draft policy to be used to assess the acceptability of future planning applications.

Reasons

- 3.1 Confirming the 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.

Supporting information

Background

- 4.1 Pursuant to a Cabinet resolution of the 10th of January 2024 Houses in Multiple Occupation Article 4 (1) Direction 2024 made on the 25th April 2024, under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended. (“the Direction”).
- 4.2 The Direction relates to development consisting of a change of use of a building from a use falling within Class C3 (dwellinghouse) of Part 3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) to a use falling within Class C4 (small houses in multiple occupation) of Part 3 of that Schedule and removes permitted development rights for this type of development.
- 4.3 Planning permission will therefore be required for change of use from a dwelling to a House in Multiple Occupation once this Derby City Article 4 Direction is in place.
- 4.4 The Derby City Article 4 Direction applies to the whole of Arboretum Ward and those parts of Abbey, Alvaston North, Darley, Mackworth & New Zealand, Normanton and Sinfyn & Osmaston that are within the Ring Road as indicated in appendix 1
- 4.5 In deciding whether to confirm an article 4 direction the local planning authority must take into account any representations received during the statutory consultation process.
- 4.6 If the Direction is confirmed by Cabinet it comes into effect on the 3rd May 2025. There has to be a 12-month period between making the Direction and the Direction coming into force, in other words a notice period. This period ensures that there is no compensation payable to affected property owners.
- 4.7 The statutory consultation process has been duly followed with the publication of the required press notices and the posting of over 500 site notices within the defined area. The number of owners and occupiers in the area to which the order relates makes it impracticable to give notice to all owners, occupiers and individuals affected by the direction and accordingly it is not necessary to do so.
- 4.8 In addition to the statutory requirements the proposal has been promoted and hosted on ‘Let’s Talk Derby’ web pages; media and social media interviews; and through Planning email strap lines.
- 4.9 The consultation period which ran from 2 April 2024 until Friday 31 May 2024 resulted in 246 written responses – the majority were in support with only 6 against. These are summarised in Appendix 2. With the full responses available here [Article 4 Direction responses - OneDrive \(sharepoint.com\)](#).
- 4.10 The main issues raised against the Direction related to restricting the supply of housing and that some of the perceived problems of HMOs can be addressed in other ways. Support for the Direction related to better regulation ensuring better quality housing options, regulation of private landlords, and ability to prevent some of the

perceived issues with large concentrations of HMOs i.e. antisocial behaviour, crime, parking impact on local services and community cohesion.

- 4.11 The responses to this consultation are not unexpected and reflect the local data that was held by DCC referred to in the January 2024 report and the Government report 'Evidence Gathering – Housing in Multiple Occupation and Possible Planning Responses' (CLG 2008).
- 4.12 Article 4 Directions must be based on robust evidence and applied to the smallest geographical area possible. A Direction should be limited to where it is necessary to protect local amenity or the well-being of the area. The results of this consultation and its responses demonstrate both geographically and functionally that the proposed Area is both generally supported and needed.
- 4.13 A local planning authority cannot confirm a Direction until the period of 28 days has expired following the latest date on which the notice was published, or such longer period as may be specified by the Secretary of State following the notification by the authority of the making of the direction. That date has passed and the Secretary of State who has been provided with copies of the direction, notice and map as required by the regulations has not extended the period or raised objection to the direction.

Guidance going forwards.

- 5.1 The relevant planning policy wording to guide decisions on HMOs is being worked up as part of the emerging Local Plan, but as the Local Plan process takes time and is unlikely to be adopted until early 2026 it would be appropriate to provide a basis for assessing planning applications made in advance of the adoption of the Local Plan. This can be in the form of planning guidance to help inform developers and residents of the criteria that we will be using to assess the merits of the proposals.
- 5.2 Proposed policy:

Where a proposal would create a new House in Multiple Occupation (HMO), regard will be had to any potential adverse impacts which may be caused by the proliferation of HMOs on the local environment, including exacerbation of parking problems. Where there is evidence that such proposals are likely to cause unacceptable harm to the local environment, including adverse impacts on the character or amenity of an area, proposals will be resisted.

In particular, proposals which would create new HMOs will only be permitted where the following criteria can also be met :

- *The proposal would not lead to the creation of three or more adjacent HMO properties.*
- *The proposal would not lead to 'sandwiching' of a residential property between two HMO properties or a HMO and a non-residential property.*
- *The proposal would not lead to more than 10% of the properties within a 50m radius of the development site being used as HMOs.*

Where a new HMO is proposed which will include 15 or more individuals living in one dwelling, the Council will seek to secure Planning Obligations (in line with Policy XX)

for financial contributions in order to mitigate for increased impacts on local facilities and meet increased infrastructure needs.

When submitting a planning application which involves the creation of a new HMO, applicants should provide their own assessment of how their proposals meet the requirements of this policy.

Next Steps

- 6.1 Following the assessment of the consultation data and Cabinet confirming the Direction we need to give notice to the public of its confirmation and the date it comes into effect and send a copy to the Secretary of State.
- 6.2 The Local Plan is currently being refreshed at which point new planning policy relating to HMOs can be introduced. In advance of this and alongside the Article 4 Direction it is recommended that a guidance document is developed, consulted on and implemented to guide decision making. The guidance document cannot of itself however create new policy but is a material consideration in determining planning applications and guides decision making.

Public/stakeholder engagement

- 7.1 As detailed in the report. Any new policy will be subject of consultation in accordance with our Statement of Community Involvement.

Other options

- 8.1 To do nothing is an option, as some objections indicate, but given the support alongside the evidence provided that led to the previous cabinet resolution the creation of an Article 4 Direction area provides the council with more control over the suitability of premises for HMOs through the planning process

Financial and value for money issues

- 9.1 The process and the necessary Planning Guidance Document will be undertaken before the Direction formally comes into effect.

There would be a small income gain received from the increase in planning applications received from this action.

Legal implications

- 10.1 Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 enables a local planning authority to disapply permission given by Article 3 of that Order. The procedure for doing so being set out in Schedule 3 of that Order.

Climate implications

- 11.1 Providing extra controls will enable, through the planning processes, better planning for an equitable community getting the right development in the right location. The Article 4 Direction 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

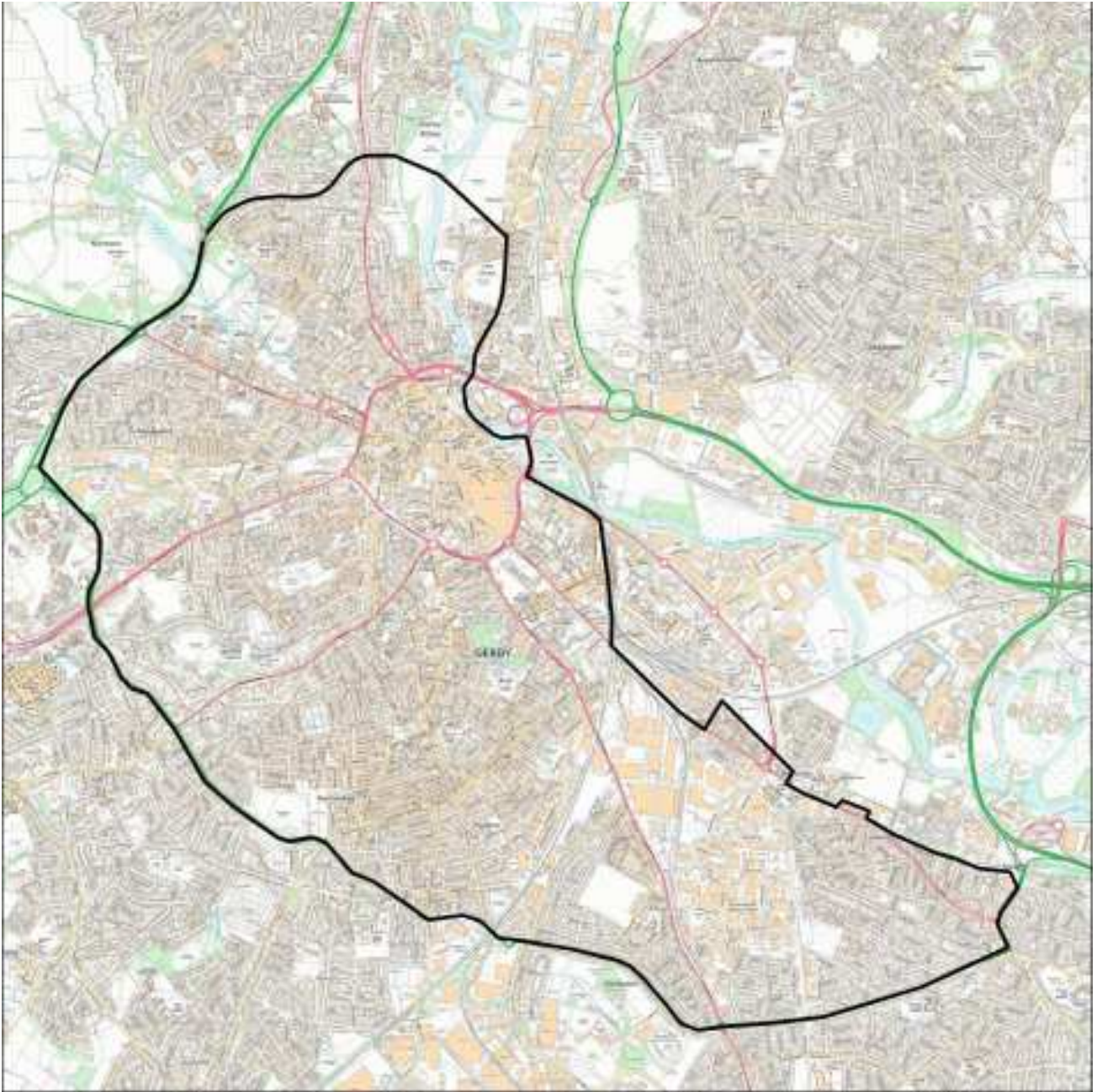
- 12.1 Adding a level of control to the currently unregulated proliferation of small HMO properties will drive to the heart of the problems being experienced in our communities. Suitable properties in the right location secured through proper assessment will benefit existing and future residents enabling 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

- 13.1 Equalities Impact
By bringing in Article 4 Direction 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:

Role	Name	Date of sign-off
Legal Finance Service Director(s) Report sponsor	Olu Idowu, Head of Legal Services	3 September 2024
Other(s)	Tammy Whitaker, Director of City Growth and Vibrancy	12 September 2024
Background papers: List of appendices:	None Appendix 1 – Proposed Article 4 Area Appendix 2 – Summary of responses received	



Appendix 2

Summary of responses received to the consultation:

Against:

- HMOs allow single people to live cost effectively, are a good way of providing necessary housing.
- Restricting the supply of HMOs reduces the availability of competitive housing options meaning that single people will struggle to live in these areas, and therefore discriminate against single people and / or reduce their ability to live in these areas so rents go up and investment on property down.
- Many of the problems flagged up with HMOs arise not necessarily caused by HMOs. To resolve parking problems it would be better to address in a more targeted way eg better public transport, better lighting / policing to encourage people to walk or take public transport - rather than a broad approach. There's a strong element of nimbyism here.
- Allowing conversion of property use is not only allowed by law it should also be encouraged. The next increment of development is necessary to build wealth.

For:

- More regulation will help improve the quality and tenants cared for with more powers – rather than landlords exploiting vulnerable people
- City needs its own criteria to ensure that small apartments are on the larger size and fit with the national guidelines for new builds not small spaces
- Controls cannot come soon enough; it's become a scourge on society. I can see how this has happened over the years with the lack of social housing (councils haven't rebuilt and lots of people have had the right to buy) and an ever increasing population.
- Article 4 boundary should be much a wider area, city wide, as my fear is that the developers will seek properties just outside the boundaries
- Better controls will limit the change from family houses which are also needed
- Communities have no say in proposals yet have to suffer the consequences
- Over saturation in certain areas whilst others have little or none. There needs to be more equity of choice, not just the same old areas every time

In detail:

- **Rental Properties in a poor state of repair**, with very little or no maintenance making the area look like a slum. Which makes a mockery of the beautiful conservation areas of Derby that residents cherish
- **Absent landlords** - do not have to live with the consequences when 2 bedroomed houses turn into 6 bedroom dwellings along with a general deterioration of buildings. Profiteering landlords are getting too greedy at expense of communities. "to let" signs being permanently mounted on the houses blights the street
- HMOs can work if properly managed and maintained by responsible tenants and landlords.
- It's a bigger national issue around the regulation of private landlords and rent levels that directly impacts on the ability of individuals to find affordable housing. This equally requires addressing.
- Better regulation of landlords is needed with Register of Landlords also to have them provide compulsory information packs, interpreted into appropriate language(s) with local information such as doctor surgeries, schools, local police numbers and bin collection days

- **Car Parking** - already a massive issue without adding to it further, most of the time a fire engine or ambulance would not get access in an emergency as bad as it is now. Parking on pavements and around corners is a constant disruption and danger. Noise nuisance, engines and doors slamming. More cars less space = frustration and anger
- **Rubbish and Bins overflowing** - Bins not being used for the correct purpose. Bins not put away following collection and left anywhere on the street blocking and obstructing the pavements for other users of pavements including parents with pushchairs and prams and disabled wheelchair users
- **Fly tipping on the street** – sofas, mattresses, fridges and freezers, the list is endless what gets dumped attracting vermin and appears to be getting worse, not better.
- **Additional strain on infrastructure** - Victorian drains and services etc. – Areas are saturated with HMO. The drains constantly smell like sewage since HMO conversion, a very unpleasant smelly problem again that nobody wants to live near.
- **Noise, Pollution and Disruption** –anti-social behaviours are a known existing issue in the area, shouting and screaming at each other, smoking cannabis to the extent that I couldn't have my windows and doors open in the Summer. Loud music. Added to by family properties being converted into HMOs.
- **Living space** - battery-farm sized accommodation is unwelcome in traditional streets. HMO have no space for the individual nor the family to enjoy recreation in any comfort. Trapping people in cramped prison cell accommodation on top of each other tend to pass their problems on to each other leading to an increase in antisocial behaviour. Increased crime including drug dealing and prostitution.
- **Loss of Community pride** – from concentrations of transient renters. Poor neighbourhood cohesion, turning into a ghetto as a result, no one wants to go out after dark anymore anxiety to householders close to HMO. HMO residents are not emotionally invested in the area. Distressing to witness the gradual degradation of our area as more individuals are packed into limited spaces. Fragments establish neighbourhoods. Results in 'family areas' not suitable for children
- **Accommodation type** - the terraced houses in this area are too small for this type of dwelling which are more suited to first time buyers and small families.
- **More Council enforcement** - strict enforcement/inspection regime needed. With thoughtful planning, robust licensing, and enforcement, we can mitigate the negative impacts while still providing necessary housing options
- **Improve controls** - installing sound insulation on party walls. This is particularly important for terraced properties. Council would be able to ensure that Derby residents living in HMOs have a decent minimum standard of housing. Bring in compulsory landlord and rented property registration across Derby to drive slum landlords from those areas
- It's not fair and not right that these HMO properties and all their negativities can change the area that we love.
- To let signs are left permanently on the houses, some have more than one if the letting agent has changed. Less houses available as affordable units
- Hartington Street acts as a sober reminder as to what can happen if too many HMOs are permitted in an area
- Overcrowdingthe days of Victorian tenements are returning - third world ghetto creation
- 200m radius in the policy is too high given the social harms that occur with such density

In addition the Police Superintendent Head of Operations advises that:

- There are specific areas of the City where the saturation of HMOs has had a detrimental effect upon community cohesion in a number of ways, including raised levels of crime and anti-social behaviour.
- Higher crime rates and calls for service attributable to areas where higher levels of registered HMOs are shown within the New Zealand and Abbey Wards of the City.
- Anecdotally, the picture painted for these saturated areas is one of HMOs attracting tenant groups who would be associated with higher levels of victimisation, for example students or single men with chaotic lifestyles, who are also often less well invested in communities than, for example, owner occupiers.
- The quality of housing offered is often low, which exacerbates the above point and seems to be creating a spiral of decline in certain areas, where the balance between rental and owned property is reaching a tipping point.
- As a consequence, from an operational Policing perspective we would very much support the principle of greater controls over the allocation of HMOs, and also any other means which can be used to bring about a safer and more secure HMO provision for the City