

**Report to: Cabinet, 12 February 2013**

**Report of: Cabinet Member for Economic Prosperity**

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**Subject: ARTICLE 4 DIRECTION FOR CONVERSION FROM RESIDENTIAL DWELLINGHOUSES TO HOUSES IN MULTIPLE OCCUPATION**

**1. Decision Required**

- 1.1 That Cabinet authorise the making of an Article 4 Direction under Article 4(2) of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) to remove permitted development rights in relation to changes of use from Use Class C3 to Use Class C4 (as defined in the Town and Country Planning [Use Classes] Order 1987, as amended). Twelve months advance notice of the Direction taking effect shall be given and representations will be invited for a period of 28 days from the date of notification. The Direction shall apply to all wards and parishes of the city.
- 1.2 That Cabinet receive a further report, following the period of 28 days on representations received by the Council, in order to decide whether or not to confirm the Article 4 Direction.

**2. Background**

- 2.1 In May 2009, the previous Government consulted on some possible planning responses for addressing the impact of high concentrations of houses in multiple occupation (HMOs). This was in response to concerns from some Council's about the growth of student accommodation, much of which took the form of shared houses and therefore did not fall within planning control.
- 2.2 In March 2010, the Government announced changes to the Use Classes Order whereby some small HMOs, such as shared houses, were no longer in the same use class as a single dwelling (Class C3). They would be included within a new use class, Class C4, and changes of use from a single dwelling to a small HMO would require a planning application.
- 2.3 In October 2010, the new Government made further changes to the Use Classes Order in order to remove unnecessary bureaucracy in areas where concentrations of HMOs were not a problem. The changes removed the requirement for a planning application for changes of use from dwellings (C3) to small HMOs (C4). The Government's preferred approach was for local planning authorities to serve an Article 4 Direction on specific areas where HMOs or student accommodation was concentrated. This would in effect remove the permitted development rights for changes of use from C3 to C4 uses. Further changes to the regulations made it easier to serve an Article 4 Direction in respect of HMOs.
- 2.4 In the mean time officers have been monitoring the effect of the change and gathered evidence to assess whether there is a need to intervene to remove permitted development rights.

### **3. The Need for an Article 4 Direction**

- 3.1 A concentration of HMOs can harm residential amenity, particularly by way of increased noise nuisance, anti-social behaviour, incidences of crime and adverse impacts on the physical environment. This is largely due to:-
- (i) an imbalance in the mix of the population with higher proportions of young, single people living student lifestyles, and
  - (ii) a high proportion of privately rented accommodation with short-term lets where the standards of upkeep of the property are generally lower.
- 3.2 An intensification of HMO accommodation can harm the local housing market, particularly when family accommodation is used for HMOs that prevents ready access to such accommodation for those seeking to purchase. There are implications for the amenity of residents required to remain in accommodation unsuitable for the needs/aspirations of families and new families respectively.
- 3.3 There has been the highest concentration of student accommodation in the St Clement and St John wards. With the expansion of the University of Worcester, the establishment of the city centre campus and the government's relaxation to allow permitted development change of use from a dwellinghouse, there has been increased concentration of HMOs in the above wards but a high concentration has appeared in Bedwardine, Arboretum and Cathedral wards.
- 3.4 The Council recognises the clear benefits arising from a resident student population, particularly in terms of support for the economy and the potential to retain a highly qualified, graduate workforce. The Council currently works with the University of Worcester to resolve any issues that may arise within residential neighbourhoods. The University works hard to help new students integrate into the wider community. However, the annual changeover of tenants means that the same issues arise again the following year. Increased planning control will enable the Council to better manage the location of new student accommodation.
- 3.5 Changes to the planning regulations in October made it easier for local planning authorities to serve Article 4 Directions removing permitted development rights for particular types of development in certain areas. Replacement Appendix D to Circular 9/95 states that local planning authorities should consider making Article 4 Directions only in exceptional circumstances where evidence suggests that the exercise of permitted development rights would harm local amenity or the proper planning of the area.
- 3.6 Research for the City Council shows that there is clear evidence of harm to local amenity and the housing market where student accommodation is concentrated. This research is documented in the report attached as **Appendix 1**.
- 3.7 It should be noted that an Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the local planning authority. In the case of a citywide Article 4 direction the authority can prevent existing concentrations from worsening and prevent new concentrations forming in other areas.

#### **4. Alternative Options Considered**

- 4.1 An alternative option would be to not make the Direction. This could result in a worsening of the existing situation in areas of highest concentration and potentially the creation of new areas of concentration.
- 4.2 An alternative to a citywide Direction would be to have one for the west side wards, Cathedral and Arboretum. It is considered that to draw a boundary around certain areas at risk could potentially put pressure on areas just outside of the designated area, thereby displacing further across the city.

#### **5. Policy, Legal, Equalities, Financial and Risk Management Implications**

##### 5.1 Policy:-

- (i) Planning: There will need to be a policy in place at the point of implementing the Article 4 Direction. This may be a Development Plan Document, but this can only be prepared after the adoption of a core strategy. There remains uncertainty as to the date of adoption and therefore it is unclear as to when a DPD could be produced. Therefore arrangements should be made to approve an interim policy for Development Management purposes. If necessary this can be prepared before final implementation.
- (ii) Housing: The Strategic Housing Service aims to balance the housing supply by creating or maintaining mixed communities. The level of HMO's is undermining the service's ability to achieve this aim. The Worcestershire Housing Strategy mission seeks to "work with individuals, communities and partners to deliver housing opportunities so that people have the right homes, at the right time and in the right place".

5.2 Legal: There is an established procedure for the preparation, consultation, approval and implementation of an Article 4 Direction as specified in Appendix D (revised) of Circular 9/95: General Development Consolidation Order. Failure to comply may lead to Judicial Review and/or compensation. The contents of this report are in accordance with the guidance

5.3 Equalities: The policy is specifically aimed at addressing the issues of HMOs in the city. As the evidence demonstrates the correlation of HMOs with the expansion in student population and occupation by students, it is clear that of the groups identified for an Equality Assessment there is a known impact on a specific group by virtue of their age (albeit that not all students are of the same age group).

However the policy seeks to safeguard the interests of students as much as control the accommodation within which they are located. The policy would enable the local planning authority to control where HMOs were located and thence, where the Planning system can do so, the environment within which students are housed.

There is therefore a negative impact on availability but a positive in the quality of available accommodation.

There would also be a positive benefit to community relations by enabling there to be more control over the balance of student to non-student residents, the availability of family housing and the wider environmental and social interests.

#### 5.4 Financial:-

- (i) There is an implication if the Article 4 Direction is implemented immediately after approval. The legislation requires a minimum delay of twelve months for an authority to implement an Article 4 Direction to avoid compensation claims from any applicant refused permission that would lose potential revenue from permitted development being refused.
- (ii) The Direction will result in an increase in the number of planning applications from 2014 but there is no evidence that these cannot be dealt with within existing budgets. Article 4 Directions remove existing permitted development rights and, therefore, a planning fee cannot be charged for planning applications which arise as a consequence of the Direction.

5.5 Risk Management: There are no service or corporate risks associated with this action.

### **6. Comments of Development Services Manager**

- 6.1 There is now evidence to demonstrate that there is harm to the amenity and character of residential areas and a negative impact on the local housing market as a result of permitted change from house to HMO. It is appropriate therefore to use an Article 4 Direction to manage the problem that has been identified in the city.
- 6.2 The Direction would not prevent change of use but would require planning permission to be applied for. It will be necessary for a policy to be used to determine applications to be prepared before the implementation of the Article 4 Direction.
- 6.3 Before the Direction can be implemented the Council has to decide whether to implement immediately and be liable for any compensation claims made by developers whose permitted development has been thwarted by a refusal of planning permission or, to satisfy the content of Appendix D of 9/95, delay implementation for twelve months. The recommendation is based on the latter.
- 6.4 A citywide Direction would prevent the displacement of the problem round the city in the short-term and the possibility of further Directions to be implemented in areas affected by the spread across the city.

### **7. THE CABINET MEMBER FOR ECONOMIC PROSPERITY, COUNCILLOR MARC BAYLISS, RECOMMENDS:**

- 1. **Cabinet agree the making of an Article 4 Direction is authorised under Article 4(2) of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) to remove permitted development rights in relation to changes of use from Use Class C3 to Use Class C4 (as defined in the Town and Country Planning [Use Classes] Order 1987, as amended).**

**Twelve months advance notice of the Direction taking effect shall be given and representations will be invited for a period of 28 days from the date of notification. The Direction shall apply to all wards and parishes of the city.**

- 2. Cabinet receive a further report, following the period of 28 days on representations received by the Council, in order to decide whether or not to confirm the Article 4 Direction.**

**Ward(s): All**  
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**Background Papers: Appendix 1 - Consultants Report undertaken by Housing Training and Consultancy Ltd June 2012**