

ADOPTION OF ARTICLE 4 DIRECTION TO CONTROL HOUSES IN MULTIPLE OCCUPATION AROUND BRUNEL UNIVERSITY

Cabinet Member	Councillor Keith Burrows
Cabinet Portfolio	Planning, Transportation and Recycling
Officer Contact	James Rodger – Residents Services
Papers with report	N/A

HEADLINE INFORMATION

Summary	<p>In November 2011 Council agreed that officers should undertake the necessary statutory processes to create an Article 4 Direction in Brunel and Uxbridge South Wards to control Houses in Multiple Occupation (HMO's) in these wards. A formal notice giving the Councils intention to create an Article 4 Direction was sent to the Secretary of State for Communities and local Government incorporating the statutory 12 month notice period. This was sent on 24 March 2012 and advised the Secretary of State of the Councils intention to adopt an Article 4 Direction on 24 March 2013. Furthermore from 24 March 2012 a 1 month consultation period occurred with residents and interested parties in the two wards. The majority of responses to the public consultation were in favour of the adoption of the Article 4 Direction. It is recommended to Council that they take note of the consultation responses and agree the commencement of the Article 4 Direction from 24 March 2013.</p>
Contribution to our plans and strategies	<p>This report primarily relates to the impact of HMO's on Hillingdon being a clean and attractive Borough.</p>
Financial Cost	<p>On introduction there would be an on-going cost to the Council of approximately £20,000 a year to deal with the no fee planning applications and to monitor and enforce planning breaches.</p>
Relevant Policy Overview Committee	<p>Residents' and Environmental Services Policy Overview Committee</p>
Ward(s) affected	<p>Brunel & Uxbridge South</p>

RECOMMENDATION: That the consultation responses be noted and the commencement of the Article 4 Direction from 24 March 2013 be approved.

Reasons for recommendation

Issues associated with the large concentrations of Houses in Multiple Occupation (HMO's) in Brunel and Uxbridge South Wards, mainly used by students, have had a negative impact on the

lives of many residents who live in these wards. The HMO's presently do not normally require planning permission. The Article 4 Direction would require planning applications to be submitted for new HMO's and enable the Council to decide whether new HMO's should or should not be granted planning permission. The Article 4 Direction will enable the Council to properly consider the impact on its residents from new HMO's in the Brunel and Uxbridge South Wards.

Alternative options considered / risk management

Not to commence the Article 4 Direction. This would run against the response to the public consultation and would not be in the public interest for the majority of residents in the affected wards.

Policy Overview Committee comments

None at this stage.

INFORMATION

Supporting Information

1. The present situation is that planning permission is not required where there is movement from Class C3 (a dwelling house) to Class C4 (houses in multiple occupation with 3-6 un-related occupants living as a single household also known as HMO's) under the 'Town & Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2010'. In plain English if 7 or more people share a building in separate rooms in a situation where the occupants are not related you need planning permission. But if 3-6 people who are not related live together, as a single household (such as a student house), then planning permission will not be required, it is classed as 'permitted development'. In practice the vast majority of student houses around Brunel University have 3-6 un-related students occupying them.
2. In October 2010 the Government, in response to demand to control the effects of 'studentification' in many UK cities changed the legislation that applies to Councils seeking to impose Article 4 directions to withdraw permitted development rights. A new Government Circular was launched with the objective of simplifying how Article 4 Directions could be made to control student HMO's. The intention being to give Councils the option of creating an Article 4 Direction if they felt 'studentification' issues were causing problems such that the Council thought it appropriate to withdraw permitted development rights.
3. Article 4 Directions are a tool whereby for a specific geographic area the Council can override normal permitted development rights and require a planning application for a specific type of development outlined in the Article 4 Direction.
4. 'Studentification' is a term used to describe the adverse effects of large concentrations of students living in residential streets. There is various literature on the subject of what studentification is. Studentification is typically described in published literature as a real or perceived increase in; anti-social behaviour, in parking problems from various students in one property owning cars, dereliction and street blight such as rubbish being put out every day of the week, gardens being un-kept; and changes in overall character of an area such as 'student pubs,' off licences and takeaways proliferating. Studentification is' also referred to as affecting the social cohesion of individual streets where an 'us' and

'them', mentality can occur between students and non-students. The degree to which this occurs in individual streets is a subjective matter. Nonetheless there is empirical evidence that some streets such as Bosanquet and Barchester Close to name but two streets now have very large numbers of student HMO's and local residents are organising and attending public meetings to raise their concerns regarding studentification issues in Uxbridge South and Brunel Wards.

5. On 9 May 2011 there was a public meeting in Cowley where approximately 40-50 local residents indicated their desire for action to deal with studentification issues which they felt were blighting their lives. At that meeting the implications of an Article 4 Direction were explained. It was clear at the meeting that a number of local residents felt that their wellbeing was seriously being affected by studentification.
6. The new procedure for introducing an Article 4 direction provides that where a local authority gives 12 month's advance notice of a Direction taking effect there will be no liability to pay compensation. If the Council provides less than 12 months notice it has to pay out compensation to landowners who wish to create HMO's. For this reason Full Council previously agreed to give 12 months notice to the Secretary of State.
7. Separate from the planning process there are existing licensing arrangements (Under the Housing Acts., Hillingdon operates both Mandatory and Additional HMO Licensing. Due to the predominantly two-storey housing stock, Mandatory HMO Licensing (which only covers three storey properties) has been of limited use to this Council as an enforcement tool, so in March 2010 the Council received approval from the Government to introduce an 'Additional HMO Licensing Scheme'. This scheme covers two storey HMO's in the south of the Borough. Hillingdon has operated an HMO Registration since September 1997, with the introduction of the additional HMO Licensing scheme in March 2010.
8. The Council has been increasingly effective in dealing with the worst landlords through HMO licensing. Nonetheless HMO licensing will not prevent the proliferation of student HMO's around Brunel University. A number of the streets adjacent to the University now have over 50% student HMOs. With several hundred students concentrated, as in Brunel Ward itself, in a few streets, it cannot be denied that studentification effects are extensively felt in some Hillingdon streets. These streets are in the opinion of officers exclusively located in Brunel and Uxbridge South Wards. It is likely that landlords will quickly realise that certain streets will not be worth purchasing properties on (as planning permission will be difficult to obtain). Over time the effect would be to spread HMO's to other streets not currently adversely affected by HMO's. This needs to be considered when deciding whether to commence the Article 4 Direction. There are many streets within Brunel and Uxbridge South Wards that have not yet been subject to studentification; so in the short term it is not anticipated that an Article 4 direction would result in other wards being affected, furthermore the students want to live close to the University.
9. An Article 4 Direction will not allow the Council to refuse subsequent planning applications unless it has strong grounds to do so. Strategic policies at a National level and in the Mayor's London Plan support the growth of the education sector, preventing any form of student housing would run against this. Therefore in streets where there are not clusters of existing HMO's or a concentration of HMO's an Article 4 Direction should not be viewed as a tool that would result in planning applications being refused.

10. There would be running costs associated with an Article 4 Direction of approximately £20,000 per annum. Officers estimate there is unlikely to be more than 50 new HMO's a year. Based on 50 HMO applications, with a number expected to be Committee items, this would equate to 25% of a full time planning officer case-load. The costing's for a planning officer include 'on-costs', the additional cost of enforcement cases (as an Article 4 Direction creates a new planning control to address breaches of), appeals cost and managerial and administrative input. This would all add up to approximately £20,000 per annum. There is no current budget set aside for this expenditure. However the possible 50 applications (when considered against the 2500+ total number of planning applications) and additional associated enforcement and appeal work is not so substantive that it could not be subsumed into existing officer workloads.
11. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 states that approval to make an Article 4 Direction is not a Cabinet function and therefore must be carried out by full Council or another appropriate Council Committee.

Results of Public Consultation Undertaken in April/May 2012

12. Letters were sent to all residents in the two wards, all resident associations in the two wards, all higher education establishments in the two wards and nearby wards (re: New Bucks University, Uxbridge College and Brunel University), Hillingdon Hospital, Brunel Students Union and the Residential Landlords Association. Site notices were erected and a newspaper advert placed in the Uxbridge Gazette. The public consultation was therefore very comprehensive. Responses are summarised below:

(i) Residents in support - 105 letters (Including John Randall MP) which numbered 134 signatures, key issues raised:

- The community becomes demographically unbalanced. Long term residents leave and are being replaced by a transient young adult population.
- The amount of housing suitable and available for families has been reduced.
- Rubbish & litter, gardens not maintained, damaged buildings not being repaired, cars parked in front gardens etc.
- Noise issues (especially late at night).
- HMO's are adversely impacting on property values
- Anti-social behaviour issues
- Streets with high concentration of HMOs have become ghettos.
- Not enough parking spaces available because of HMOs
- Changes should be sooner than March 2013
- Too many people using local facilities/services e.g. drains are constantly having to be unblocked.
- Area feels over-run with properties let out mainly to students.
- Area looks untidy due to HMOs

(ii) Residents opposed, 12 letters (including the Residential Landlords Association), key issues raised:

- Tenants generate revenue for local businesses
- Brunel students should live close to university for safety reasons
- Property values in these wards will fall significantly
- Unfair and discriminatory against landlords and tenants due to additional costs and extra work.
- Objectionable & unconventional to make one rule for one part of Uxbridge and another rule for another part.

- There is unemployment & recession and introducing strict legislation on HMO housing could make the situation worse resulting in more people being homeless and more properties being boarded up.
- Students and young professionals often share a three or four bedroom house
- Would affect cohabiting couples from being able to purchase or rent house with anybody else.
- The council has not made a case
- How will this change stop anti-social behaviour
- Council have no way of policing this directive
- Council should remember that one or two unsavoury neighbours in a house can make more noise than six or seven.

A letter with 38 signatures attached was received a week after the end of the consultation period objecting on the grounds of the adverse financial impacts on landlords.

- (iii) Brunel University Students Union do not object to the proposals but rather asked the Council to do what it could to ensure the changes do not lead to higher rents for students.
- (iv) The Cowley Community Residents are strongly in support of the Article 4 proposals.
- (v) No response was received from the higher education establishments consulted.

13. It should be noted that there are differences of opinion between those who support and are against the proposals as to whether the Article 4 Direction will have positive or negative financial impacts. Nonetheless, it is the adverse impacts on the amenity of local residents who live close to large concentrations of HMO's which are the key reason why Council is asked to agree the commencement of the Article 4 Direction. A number of the reasons of objection appear to be based on the in-correct assumption that the Article 4 Direction will prevent HMO's; rather it will enable the Council to consider the appropriateness of individual HMO's through the planning process. There is no fee for applications that arise because of the Article 4 Direction.

Financial Implications

On introduction there would be an on-going cost to the Council of approximately £20,000 a year to deal with the no fee planning applications and to monitor and enforce planning breaches. As outlined above in the report this cost is expected to be subsumed within existing planning officers workloads and therefore contained within the planning budget.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

It will enable Full Council to determine whether an Article 4 Direction should be created.

Consultation Carried Out or Required

If an Article 4 Direction is implemented then there would need to be extensive consultation. This report has been subject to consultation with the Private Sector Housing Team and the benefits or otherwise of an Article 4 Direction were discussed at a Public meeting on 9 May 2011 set up by the Cowley Residents Association attended by the report writer and is the subject of an increasing amount of correspondence to Council officers.

CORPORATE IMPLICATIONS

Corporate Finance

Corporate Finance has reviewed this report and concurs with the financial implications set out above, noting that costs associated with this article 4 direction are expected to be approximately £20,000 per annum. As noted within the body of this report, these costs are to be contained within existing planning budgets and therefore do not impact upon the Council's Medium Term Financial Forecast.

Legal

On 1 October 2010 the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2010 came into force. The Order amends the 1995 (General Permitted Development) Order and makes a change of use from a use falling within Class C3 (dwelling houses) to a use falling within Class C4 (houses in multiple occupation) 'permitted development' – i.e. planning permission is no longer needed to do this.

Under Article 4 of the General Development Order 1995 (as amended) local planning authorities can make directions withdrawing permitted development rights from development listed in Schedule 2 of the same order. For all article 4 directions the legal requirements are set out in paragraph (1) of article 4 of the General Development Order (as amended). The local planning authority must be satisfied that it is expedient that development that would normally benefit from permitted development rights should not be carried out unless permission is granted for it on an application. Furthermore, the National Planning Policy Framework states that the use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the well being of the area. This report explains why, at present, it is expedient to withdraw permitted development rights for change of use from C3 (a dwelling house) to C4 (houses in multiple occupation).

Article 5 of the General Development Order (as amended) sets out the procedure for public consultation and the report indicates that the statutory consultation procedure was followed. When considering the consultation responses the Council is required under Article 5 (9) of the General Development Order (as amended) to ensure there is a full consideration of all representations arising including those which do not accord with the officer recommendation. The decision maker must be satisfied that responses from the public are conscientiously taken into account.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 states that approval to make an Article 4 Direction is not a Cabinet function and therefore must be carried out by Full Council.

Corporate Landlord

The Corporate Landlord is in support of the recommendations of this report.

BACKGROUND PAPERS: Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2010