

Report to:	Cabinet	Date of Meeting:	21 June 2018
Subject:	Confirmation of Article 4 Direction for Houses in Multiple Occupation (HMOs)		
Report of:	Chief Planning Officer	Wards Affected:	Blundellsands; Cambridge; Church; Derby; Dukes; Kew; Linacre; Litherland; Victoria;
Portfolio:	Cabinet Member - Planning and Building Control		
Is this a Key Decision:	Yes	Included in Forward Plan:	Yes
Exempt / Confidential Report:	No		

Summary:

The purpose of this report is to confirm the making of a non-immediate Article 4 Direction in relation to Houses of Multiple Occupation in parts of Bootle, Seaforth, Litherland Waterloo and Southport. The Article 4 Direction was made in September 2017 and seeks to restrict permitted development rights in these areas from houses to Houses in Multiple Occupation.

Recommendation(s):

That Cabinet:

Confirms the making of a non-immediate Article 4 Direction, attached in Appendix A, in relation to Houses in Multiple Occupation in selected areas of Bootle, Seaforth, Litherland, Waterloo and Southport as shown in Appendices B and C. The Article 4 Direction will come into force on 20 September 2018, one year after it was made.

Reasons for the Recommendation(s):

People can, as permitted development rights under the General Development Permitted Order 2015 (as amended), convert their homes to a small (i.e. containing 6 or fewer individuals) House in Multiple Occupation (HMOs) in parts of Sefton. Once the Article 4 Direction comes into effect, planning permission will be required before such changes of use can take place, and this will ensure the Council has control of these proposals. The Council will therefore be able to consider whether the proposals, either individually, or in combination, will have a detrimental impact on residential amenity.

The Article 4 Direction will work in parallel with the HMOs licensing that has recently been introduced in parts of Sefton.

Alternative Options Considered and Rejected: (including any Risk Implications)

Do not introduce the Article 4 Direction. The Council would not have control of conversion to small HMOs (i.e. for occupation by between 3 and 6 unrelated people) in the areas identified in Appendices B and C. There is a risk of clusters of HMOs occurring which may impact on residential amenity. Larger HMOs (i.e. those with accommodation for more than six unrelated people) already require planning permission and will not be affected by this Direction.

What will it cost and how will it be financed?

(A) Revenue Costs

It is estimated that these proposals will be cost neutral to the Council with any costs being met from resulting planning applications

(B) Capital Costs

None

Implications of the Proposals:

<p>Resource Implications (Financial, IT, Staffing and Assets):</p> <p>None</p>
<p>Legal Implications:</p> <p>An Article 4 Direction may be made by the Local Planning Authority. It restricts the scope of Permitted Development Rights either in relation to a particular area or site or to a particular type of development. Where an Article 4 Direction has been made and is in effect, a planning application will be required for development that would otherwise have been permitted development.</p>
<p>Equality Implications:</p> <p>There are no equality implications</p>

Contribution to the Council's Core Purpose:

<p>Protect the most vulnerable:</p> <p>The proposals will help the Council to manage the spread of HMOs in areas that have the highest instances of anti-social behaviour, poor environmental quality, and deprivation. A proliferation of HMOs can exacerbate these issues.</p>
<p>Facilitate confident and resilient communities:</p>

The requirement all HMOs in the selected areas to require planning permission will help give local communities a greater say in how their community changes.
Commission, broker and provide core services: Not applicable
Place – leadership and influencer: Not applicable
Drivers of change and reform: Not applicable
Facilitate sustainable economic prosperity: Not applicable
Greater income for social investment: Not applicable
Cleaner Greener Not applicable

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Head of Corporate Resources (FD5145/18.) and Head of Regulation and Compliance (LD.4369/18.) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

Public and targeted consultation was undertaken on the making on the non-immediate Article 4 Direction. This is set out in section 4 of this report.

Implementation Date for the Decision

Following the expiry of the “call-in” period for the Minutes of the Cabinet Meeting

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Appendices:

Appendix A Article 4 Direction

Appendix B Areas in which the Article 4 Direction will apply – Bootle, Seaforth, Litherland and Waterloo

Appendix C Areas in which the Article 4 Direction will apply - Southport

Appendix D Notice of Confirmation of Article 4 Direction

Background Papers:

The following background papers, which are not available elsewhere on the Internet can be accessed on the Council website www.sefton.gov.uk/article4hmo :

- Supporting case for Article 4 Direction in parts of Bootle, Litherland, Waterloo and Southport.

1. Introduction/Background

1.1 In April 2010 the Government introduced changes to the Use Classes Order 1987 (as amended) which created a new use class - Class C4 (Houses in Multiple Occupation). This is defined as the use of a dwelling house by between 3 and 6 residents as a small House in Multiple Occupation (HMO). Large HMOs, i.e. those of more than six residents remain *sui generis* (i.e. a use of its own kind) and are not covered by the Use Classes Order. Conversion of a dwelling to a large HMO therefore automatically requires planning permission.

1.2 A House in Multiple Occupation can broadly be defined as a house occupied by unrelated individuals, some of whom share one or more of the basic facilities. Commonly shared facilities include: bathrooms, toilets, shower rooms, living rooms and/or kitchens. A building defined as a HMO may consist entirely of bedsit unit type accommodation (where some or all amenities are shared) or a combination of both bedsits and self-contained flats.

1.3 In October 2010 the Government extended permitted development rights for the change of use of properties in Class C3 (dwelling house) to Class C4 without the need to apply for planning permission.

1.4 This means that any change of use from a dwelling house to a small House in Multiple Occupation can occur without the need for planning permission. The Council has no control over which properties are converted and therefore cannot prevent unsuitable homes being converted, or neighbourhoods being inundated with HMOs. Concentrations of HMOs can cause noise and disturbance to neighbouring properties as a result of living accommodation being located on upper floors of houses and more frequent comings and goings throughout the day and night.

1.5 In order to manage the conversion of small HMOs the Council has resolved (Minute 39, Cabinet 27 July 2017) to remove the permitted development rights for this change of use. The process for removing permitted development rights is done through an Article 4 Direction.

2. Article 4 Directions

2.1 An Article 4 direction is a direction under article 4 of the General Permitted Development Order which enables the Secretary of State or the Local Planning Authority to withdraw specified permitted development rights across a defined area.

2.2 Provided that there is justification for both its purpose and extent, an Article 4 direction can:

- cover an area of any geographic size, from a specific site to a local authority-wide area
- remove specified permitted development rights related to operational development or change of use
- remove permitted development rights with temporary or permanent effect

2.3 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

wellbeing of the area. The potential harm that the direction is intended to address should be clearly identified.

2.4 An Article 4 direction does not mean that development is not allowed. An Article 4 direction only means that a particular development cannot be carried out as permitted development and therefore needs planning permission. This gives a local planning authority the opportunity to consider a proposal in more detail.

2.5 There are 2 types of directions under the General Permitted Development Order: non-immediate directions and directions with immediate effect.

Non-immediate directions are those where permitted development rights are withdrawn following a prior notice period which includes a period of consultation.

Immediate directions are where permitted development rights are withdrawn with immediate effect. These are then confirmed by the Council following consultation.

2.6 The removal of permitted development rights through the introduction of an Article 4 direction may make a Local Authority liable for compensation. However, where 12 months' notice is given in advance of a direction taken effect (i.e. through the making of a non-immediate direction) there will be no liability to pay compensation. Immediate directions are generally used where there is an immediate serious risk of harm, such as inappropriate works to a listed building.

3. Making of an Article 4 Direction in Sefton for Houses in Multiple Occupation

3.1 The Council considered it appropriate to remove the permitted development rights for the conversion of homes to small Homes in Multiple Occupation in selected areas through a non-immediate Article 4 direction. The non-immediate Article 4 Direction was made on 20 September 2017, having been agreed by Cabinet on July 27 (Minute 39).

3.2 The Council sought to address the above guidance and legal requirements through its evidence to support the designation of a non-immediate Article 4 Direction. The evidence is provided as a background document to this report. The Council considers that the evidence justified the application of the Article 4 Direction in the areas of Sefton identified in Appendices B and C.

4. Consultation on the Article 4 Direction

4.1 Following the making of the Article 4 Direction on 20 September 2017 a notice was placed in the local Champion group of newspapers that cover the whole of Sefton. A number of site notices were placed in prominent locations throughout each of the Article 4 Direction areas. Both the press notice and site notice gave details of the Article 4 Direction, how to access further information and how to comment. Emails were also sent to all groups on the Council's Local Plan consultation list and we notified all landlords in Sefton who currently held a HMO licence. The making of the Article 4 Direction in Sefton was picked up by the Residential Landlords Association who published it in their online news report. The consultation period ran for a 12 week from September to November 2017.

4.2 Despite the wide publicity the Article 4 Direction received, no comments were received. Earlier this year (February – April) the Council consulted on a number of draft

and updated Supplementary Planning Documents (SPDs) which supported its Local Plan. One of these covered Houses in Multiple of Occupation. It was decided, when making the SPDs available for comment, to allow a further opportunity for comments on the Article 4 Direction. This consultation was advertised through the local press and a wide variety of interest groups were notified direct by email. However, despite the further opportunity for comment, none were received.

5. Confirmation of the Article 4 Direction

5.1 Once the Article 4 Direction has been confirmed by Cabinet, the Council must, as soon as reasonably practicable, give notice of its confirmation by way of local advertisement, sites notices and on its website. A copy of the Direction must also be sent to the Secretary of State.

5.2 As the number of individual property owners and occupants within the Article 4 Direction area is very large the Council does not need to notify each directly as this is impracticable.

5.3 The Council must specify the date on which the Article 4 direction will come into force (i.e. 20 September 2018) which will ensure the required 12 month notice period will be met. The notice of confirmation is just that – it is not a further period of consultation.