



Contains Confidential or Exempt Information	No
Title	Non-immediate Article 4 direction for Hanworth Ward to withdraw permitted development rights for changes of use from dwellinghouses (Use Class C3) to small HMO's (Use Class C4).
Member Deciding	Cllr Curran, Leader
Contact Details	Marilyn Smith Head of Development Management Marilyn.Smith@hounslow.gov.uk 020 8583 5021
Date to be Considered	3 October 2016
Implementation Date if Not Called In	14 October 2016
Affected Wards	Hanworth Ward
Keywords/Index	Article 4, HMO, Hanworth

SINGLE MEMBER DECISION

1. Details of Recommendations

That the Cabinet Member approve the making of a non-immediate Article 4 direction for Hanworth Ward to withdraw permitted development rights for change of use from dwelling house (Use Class C3) to small HMO's (Use Class C4) such direction to come into force 12 months after notice of the direction is published.

If the recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit, link to Values	Dates by which they can expect to notice a difference
<p>The Article 4 Direction will remove the ability of a property owner to change the use of a property from use as a single family dwellinghouse (Use Class C3) to use as a small HMO (Use Class C4) without the need for planning permission.</p> <p>The Article 4 will not rule out other small HMO's being considered acceptable in the area but what it will do is require that planning permission is required for the change of use. Any such application would</p>	<p>These benefits will be in place when the Article 4 Direction comes into force which would be at least 12 months after the date on which the notice is first published provided the proposed date is at least 28 days after, but no longer than two years after, the</p>

then be assessed and a decision made as to whether the proposal complied with the Development Plan, taking into account all material considerations.

date upon which the consultation period begins

2. Report Summary

A House in Multiple Occupation (HMO) is a single family dwelling where facilities such as bathroom or kitchen are shared by three or more unrelated individuals. A small scale HMO (between 3-6 persons) falls within Use Class C4. Current legislation allows a family dwelling (Use Class C3) to change to a small HMO (Use Class C4) without planning permission, i.e. by utilising 'permitted development' rights.

An Article 4 Direction made under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) removes these permitted development rights that would otherwise have been available to the property. It is important to note that an Article 4 Direction merely removes the permitted development right, it does not remove the right of a person to make an application for planning permission to carry out the development. Any such application would need to be assessed in the normal way and a decision made as to whether the proposal complied with the Development Plan, taking into account all material considerations.

This report proposes the use of an Article 4 Direction to withdraw these 'permitted development rights'. The Article 4 Direction would enable the Council to better manage the impact of small HMO's in the Hanworth Ward to ensure that they are of a suitable size and standard and, protect the important stock of small family accommodation and the general amenity and character of the area. It is envisaged that any Article 4 Direction will be supported by a Supplementary Planning Document against which planning applications for HMO's will be determined.

3. Reason for Decision and Options Considered

It is accepted that HMO's are an important source of low cost, private sector housing for those on low incomes, students and those seeking temporary accommodation. HMO's have often been associated with poor standards of accommodation (notwithstanding the current licensing regime), loss of local character, pressure on parking, additional noise and disturbance, loss of single family dwellinghouses, increased pressure on local services and a general loss of environmental quality.

Historically the majority of such properties have been large single family dwellinghouses, particularly in locations close to town centres and transport nodes. However, in recent times a growing demand for low cost private rented accommodation has resulted in some instances of the conversion of small single family dwellinghouses in areas which are predominately occupied by single families, resulting in an over intensification of the use of some dwellings, to the detriment of the character of the area and the living conditions of nearby properties. The move to converting smaller properties rather than the larger properties which were used historically, has been facilitated by other permitted development rights which are available to many

dwelling. Such permitted development rights often include erecting a roof extension and ground floor extensions, especially to the rear. By extending a small single family dwellinghouse utilising these permitted development rights enables a property to accommodate more occupants.

The National Planning Policy Framework (NPPF) requirements for removing national permitted development rights requires the planning authority to demonstrate that the removal is necessary to protect local amenity or the wellbeing of a particular geographic area (NPPF, Para 200).

Most of Hounslow borough, there is currently no great problem caused by the conversion of family houses to HMOs. In fact, a supply of HMOs is essential to the housing market since they offer a relatively low cost housing option to people willing and able to live within this form of property.

However, in the Hanworth area (Hanworth Ward) the situation is rather different, over the past year numerous properties within Hanworth Ward (most notably in and around The Alders and surrounding roads) have been extended and then converted to a small HMO using permitted development rights. This area has the lowest proportion of HMO's in the Borough and is generally characterised by single family dwellings in a suburban context, with a poorer public transport accessibility level than much of the Borough.

The Borough's adopted Character Study (2015) described this area as predominantly residential, mostly postwar outer suburban which is fairly homogeneous though in some there are small pockets of diversity of character (later post- large infill) can be found. The Borough Character Study also stated that Hanworth is not notable for its street trees, though the period of development has left a legacy of grassed amenity spaces of a variety of styles, sizes and conditions which most are well- maintained.

HMO Landlords who are responsible for maintaining the ground conditions of these properties do not live in the same community and may not maintained it to the standards of long term residents. The HMO tenants also may have different patterns of work and leisure from long term residents which can lead to economic and social issues.

This area is currently proving to be very attractive for acquisition and conversion to HMOs and letting to people as this offers a reliable rental income and a good return on capital for landlords however a high concentration of shared homes can sometimes cause problems, especially if too many properties in one area are let to short term tenants with little stake in the local community.

In Hanworth area there are smaller, single family dwellings which are vital to the housing stock and mix of the Borough as a whole. Policy SC10 (Housing in Multiple Occupation, Hostels and Bed & Breakfast Accommodation) of the Adopted Local Plan 2015, which cannot be applied to small scale HMO's (Use Class C4) if converting from a single family dwellinghouse (Use Class C3) under permitted development rights, expects such facilities to –

- ...be located within convenient walking distance of town centre facilities and good public transport facilities;
- have a minimum 'original' floor area greater than 130m² to be conversion into non-family HMO...where these are located within

- convenient walking distance of town centre facilities and good public transport links;
- include suitable facilities for the storage and collection of waste and recycling in a manner that complies with waste authority guidelines and will not have a serious impact on the character and appearance of the local area; and
- demonstrate that proposals, together with other similar development in the surrounding area and will not have a serious harmful cumulative impact on the character and residential amenity of the area.

Although Policy SC10 is intended to be for those HMO's (i.e. over six occupiers) which require planning permission, much of the reasoned justification for the policy could equally apply for those which do not require permission. It is important to note that the Policy makes reference to the minimum area of 130m², prior to any enlargement of the property, as the impact of multiple occupancy on the residential amenity and character of the surrounding area is likely to give rise to serious harmful impact. Furthermore, it also states that such development should be located in a place that can absorb the more intensive household occupancy of HMO's. The reasoning behind this is that generally HMO's result in more occupants living as individual households, resulting in more cars, comings and goings etc (Policy SC6).

Much of Hanworth Ward is characterised by smaller (i.e. less than 130m² of original floorspace) properties, in locations more distant from the main town centres than much of the Borough and with relatively poor public transport accessibility levels. Therefore the impact of HMO's upon the area and the amenities of neighbouring properties is more pronounced than may be the case within other parts of the Borough. The need to protect the character of the area and the amenities of surrounding properties is considered to be especially acute in Hanworth Ward given the recent spate of conversions that have taken place and which have elicited a significant level of local opposition.

The making of this non-immediate Article 4 Direction is considered to be in compliance with the NPPF and London Plan policies that support the maintenance of a supply of 'smaller' dwellings together with the amenity and character of the area (Policy SC6 and SC10). These adopted policies have been effective in retaining a supply of smaller dwellings, the amenity and character of the area, it is considered that the permitted development right, permitting a change of use from C3 to C4 is undermining the intent of these policies.

Option	Comments
An Article 4 Direction is not issued	The use of single family dwellinghouses within Hanworth as small HMO's would continue to be permitted development and would not be subject to Hounslow's planning policies. This is likely to result in the continued expansion in the number of small HMO's and we would not have the ability to apply planning policy requirements for space and amenity standards to the detriment of future occupiers and the character of the area.
An immediate A4 Direction is issued.	Under the immediate process compensation

	can be claimed if a planning application is made within 12 months of the date of when the A4 Direction comes into force and the planning application is refused or granted subject to more limiting conditions than contained within the GPDO. It is for this reason a non-immediate A4 Direction is being proposed in this instance which includes 12 months notification period. This notification period before the A4 Direction comes into force removes compensation liability for the Council.
Applying the Article 4 Direction to the whole Borough	This option was not followed as it was considered that there are areas of the Borough where small scale HMO's are appropriate (e.g. are within an area characterised by larger properties, closer to amenities and transport nodes), and not harmful to the character of the area, the amenities of neighbouring properties or the highway and parking conditions within the area.

4. Key Implications

Targets and measures to be explained here using either paragraphs or table below or both.

How is success to be measured?					
Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be deliver by
The introduction of a non-immediate Article 4 Direction to for Hanworth Ward to withdraw permitted development rights for changes of use from dwellinghouses (Use Class C3) to small HMO's (Use Class C4).	If the Article 4 Direction is not in place at least 12 months after the date on which the notice is first published provided the proposed date is at least 28 days after, but no	If the Article 4 Direction is in place at least 12 months after the date on which the notice is first published provided the proposed date is at least 28 days after, but no longer than	N/A	N/A	Ongoing once the Article 4 Direction is in place.

	longer than two years after, the date upon which the consultation period begins	two years after, the date upon which the consultation period begins			
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5. Financial Details

a) Financial Impact On The Budget (Mandatory)

The cost of making an A4 Direction can be met through existing budgets within Regeneration, Spatial Planning and Economic Development. These costs include printing notices. A maximum expenditure of £1000 is estimated.

There is currently no fee payable for a planning application resulting from an Article 4 Direction. There will therefore be a cost to the Development Management section within the Council, particularly in terms of the processing and monitoring of applications which wouldn't otherwise have been required and for which no fee can be charged.

Further costs may also be incurred in those instances where properties have been converted without having first applied for planning permission. These costs will be as a result of the investigation by the planning enforcement team in order to ascertain whether there has been a breach of planning control or not.

b) Comments of the Director Finance and Corporate Services

The proposals above of making an A4 Direction in Hanworth Ward is currently estimated at a maximum cost £1,000 can be met through existing budgets.

It is difficult at this stage to quantity future costs which may arise as a result of processing and monitoring of applications resulting from an Article 4 Direction for which no fee are chargeable and investigations by the planning enforcement team in order to ascertain any breach of planning controls. These costs must be contained within available budget.

6. Legal (to be completed in conjunction with the Legal Department) and comments of the Head of Governance

Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 ("the GPDO") empowers a local planning authority to withdraw specified permitted development rights which would otherwise be carried out under the GPDO. If an Article 4 Direction is in place, planning permission will be required for the development covered by the direction.

Paragraph 200 of the National Planning Policy Framework advises that local planning authorities should only consider making Article 4 directions where there is a clear justification for removing national permitted development rights. The use of Article 4 directions should be limited to situations where this is necessary to protect local amenity or the wellbeing of an area.

Article 4(1) of the GPDO states that a local planning authority should not make a direction unless it is satisfied that it is expedient that development that would normally benefit from permitted development rights should not be carried out without an application for planning permission being submitted to and approved by the local planning authority.

In deciding whether an Article 4 Direction is appropriate, local planning authorities are further advised in the Government's Planning Practice Guidance to identify clearly the potential harm that the direction is intended to address.

If the Council approves the making of the non-immediate Article 4 Direction permitted development rights will only be withdrawn when the direction is confirmed by the Council following public consultation. However, Article 4 Directions cannot be applied retrospectively to development undertaken before a direction comes into force, or to development that has commenced at the time that a direction comes into force.

The Secretary of State has the power to modify or cancel an Article 4 Direction at any time before or after it is made. The Secretary of State will not exercise this power unless there are clear reasons why intervention is necessary. By virtue of provisions in the Town and Country Planning (Compensation) (England) Regulations 2015, the Council can avoid compensation liability on the effect of the proposed Article 4 Direction by publicising its intention to make the Article 4 Direction at least 12 months (and not more than two years) in advance of the Article 4 Direction taking effect.

7. Value For Money

N/A

8. Sustainability Impact Appraisal

A Sustainability Appraisal has been undertaken for the Local Plan

9. Risk Management

A principal concern for the Council is the liability to compensation associated with removing permitted development rights through the issue of an immediate Article 4 Direction that takes immediate effect.

There is also the risk that the Secretary of State cancels or modifies the Article 4 Direction once confirmed.

Small scale HMO's make an important contribution to the private rented sector by catering for the housing needs of specific groups / households and by making a contribution to housing choice. The Article 4 Direction may reduce the number of properties available for this housing group and which in turn may put additional pressure upon the Council's Housing Department. Furthermore, by restricting the Article 4 to Hanworth Ward it may increase demand for small HMO's in neighbouring Wards.

10. Links to Council Priorities

The confirmation of the Article 4 Direction will enable the Council to better manage development in the Borough and therefore has the potential to benefit the following Council values:

- **Good Quality Homes.** The ability to assess changes of use from a single family dwellinghouse to small HMO's (Use Class C3 to Use Class C4) against the Development Plan and other material considerations will help to ensure that the proposal provides accommodation of a suitable standard and size whilst enabling the Council to consider the impact of such proposals upon the character of the area and the living conditions of neighbouring properties. Enabling existing residents to be able to enjoy their own properties.

11. Equalities, Human Rights and Community Cohesion

An equalities analysis has been undertaken for the Local Plan, which has a positive impact on target groups, concluding also that it has low relevance to equality groups, and deals with all equality groups equally.

A further equalities assessment may need to be carried out prior to any Article 4 Direction coming into force and following the receipt of the consultation responses.

12. Staffing/Workforce and Accommodation implications:

N/A

13. Property and Assets

An Article 4 Direction would equally apply to Council owned properties within Hanworth Ward.

14. Any Other Implications

Whilst an Article 4 Direction is likely to be welcomed by most residents in the area, it is likely that the withdrawal of permitted development rights will not be popular with some landowners and potential landlords. It may also have the consequential impact of increasing the demand for, and concentration of, small HMO's in neighbouring Ward's.

15. Consultation

A formal consultation exercise will take place should the recommendation be agreed. The results of the consultation will be reported to the Council before the Article 4 Direction is confirmed by the Council. See further details below

16. Timetable for Implementation

Consultation on the Article 4 Direction will comply with legal requirements and follow the procedure as set out in Schedule 3, Article 1 of the GDPO 2015.

- Stage 1- The Council makes a non-immediate A4 Direction withdrawing PD rights. The Council will publish the notice of the A4 Direction in Hounslow Chronicle and on the Council website for a minimum consultation period of 21 days and will place at least 2 site notices in area (which must be maintained in position for at least six weeks) The GPDO 2015 requires notice to be served on the owner and occupier of every part of the land within the area or site to which the Direction relates. Any statutory undertakers and the Crown will be sent individual letters with a copy of the Direction. A copy of the Direction and related maps will also be placed on the Council's website.
- Stage 2 - On the same day the notice is published, the Council notifies the Secretary of State by sending a copy of the Direction and the relevant maps to which it relates. The Secretary of State has powers to modify or cancel an A4 Direction at any point before or after the confirmation
- Stage 3- Any representations received must be duly considered by the Council before a decision is made on whether or not to confirm the Direction.
- Stage 4- The A4 Direction comes into force at least 12 months after the date on which the notice is first published provided the proposed date is at least 28 days after, but no longer than two years after, the date upon which the consultation period begins; and
- Stage 5- If the A4 Direction is confirmed, notice will be given in the Hounslow Chronicle, display at least 2 site notices in the same areas as in Stage 1 above. And will be published on the Council's website and notification given to the Secretary of State.
- Stage 6 (not part of Article 1 of the GPDO 2015 but will be prepared for guidance): Prepare and adopt Article 4 HMO Supplementary Planning Document (SPD)- Jun/Aug 18
 - Draft Supplementary Planning Guidance expiry Mar/Apr 18
 - Cabinet for public consultation expiry Apr /May 18
 - Consultation (6 weeks) May - Jun 18
 - Cabinet for approval Jun /Aug 18

17. Appendices

N/A

18. Background Information

The Town and Country Planning (General Permitted Development) (England) Order 2015.

Hounslow Local Plan, adopted 15 September 2015

SIGNATURES AND AGREEMENT

Using the authority delegated to me as the relevant Cabinet Member, I agree to the recommendations.


.....
Councillor Steve Curran, Leader

Dated: ...3 October 2016

Notes:

This decision cannot be implemented until after seven working days have elapsed from the advertised decision date to allow for call in by scrutiny. It may only be exempted from this using the appropriate process as detailed in the Constitution.

A copy of this document will need to be provided to Democratic Services in advance of the decision to be taken, so that it can be published five working days beforehand in accordance with legal requirements on access to information. To fail to do so will invalidate the decision. Please alert Democratic Services of the decision to be taken in good time. If the decision is exempt from publication, you will still need to provide a copy but clearly marked

You will also need to speak to your Forward Plan Co-ordinator to ensure that this decision is listed in the Forward Plan.

REPORT ENDS