

BIRMINGHAM CITY COUNCIL

PUBLIC

Report to:	CABINET
Report of: Date of Decision:	Director of Planning and Regeneration 15th September 2014
SUBJECT:	CONFIRMATION OF ARTICLE 4 DIRECTION RELATING TO HOUSES IN MULTIPLE OCCUPATION IN PARTS OF SELLY OAK, HARBORNE AND EDGBASTON
Key Decision: Yes	Relevant Forward Plan Ref: 516016/2014
If not in the Forward Plan: (please "X" box)	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>
Relevant Cabinet Member:	Councillor Tahir Ali, Development, Transport and the Economy
Relevant O&S Chairman:	Councillor Victoria Quinn – Birmingham Economy and Transport
Wards affected:	Selly Oak, Harborne and Edgbaston

1. Purpose of report:
1.1 To confirm the introduction of an Article 4 Direction removing permitted development rights for the change of use to a House in Multiple Occupation (HMO) (Class 4) from a dwelling (Class 3) in parts of Selly Oak, Harborne and Edgbaston wards, making such development subject to the specific grant of a planning permission with effect from 30th November 2014. This would mean that a planning application would be required to carry out such changes of use. It would provide control over increasing concentration of Houses in Multiple Occupation (HMOs) in these established residential areas.

2. Decision(s) recommended:
That Cabinet:
2.1 Confirms the non-immediate Article 4 Direction (Appendix 1 – Direction and map) to remove permitted development rights to convert from C3 dwellinghouse to a C4 House in Multiple Occupation for the area as shown.
2.2 That the Secretary of State be notified in writing, of this decision to confirm the Direction.

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3. Consultation

Internal

3.1 The relevant Ward Councillors have been consulted and support the report going forward for Executive decision. The Chairman of the Overview and Scrutiny Committee has also been consulted on this report. Officers from the Economy Directorate have been involved in the preparation of this report, which they support, with input from the Strategic Director for Place through the corporate Selly Oak Project Officers Group. Legal Services and Financial Services officers have input to the report and agreed the content. Planning Committee was consulted on the making of the Article 4 Direction at their meeting of 24th January 2014 and indicated their support to the proposal.

External

3.2 An extensive public consultation was undertaken on the intention to serve an Article 4 Direction. The results of the consultation are outlined in Appendix 2.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

4.1.1 The proposed Article 4 Direction will contribute towards the Birmingham Unitary Development Plan aim of ensuring "that there is a variety of housing to meet the full range of needs throughout the City"; Para 20.18 states that there is a need to deal with the high concentration of privately rented properties and HMOs in Selly Oak. SP3 of the draft Birmingham Development Plan for improving the quality of life of all Birmingham's residents through "Continuing to place an emphasis on quality in all developments/redevelopment proposals" and "creating sustainable neighbourhoods".

4.2 Financial Implications

4.2.1 Once a non-immediate Article 4 Direction is confirmed, resulting in the removal of permitted development rights, any planning applications to change from a C3 use to a C4 within the area must be determined free of charge. The cost of the additional application work as well as costs of accessing and maintaining the data relating to Council Tax exemptions from Revenue and Benefits will be managed within existing revenue budgets for the Planning and Regeneration service.

4.3 Legal Implications

4.3.1 The Deputy Chief Executive has delegated the relevant powers to the Director of Planning and Regeneration.

4.3.2 Once a non-immediate Direction comes into force, a planning application will be required for any change of use from C3 (dwellinghouse) to C4 (small HMO) within the identified area. Permitted development rights will remain to change from C4 use to C3.

4.3.3 Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) allows local planning authorities to make Directions withdrawing permitted development rights where the authority considers it expedient that development should not be carried out unless express planning permission has been obtained for the same. Government Guidance contained in Circular 9/95 (as amended) advises that Article 4 Directions should be made only in those exceptional circumstances where evidence suggests that the exercise of permitted development rights would harm local amenity or the proper planning of the area.

4.4 Public Sector Equality Duty (see separate guidance note)

4.4.1 The Council aims to achieve new HMOs of a high standard not leading to any unacceptable impact on neighbour amenity or other interest of acknowledged importance in the interests for all members of the community. The Council has carried out an equality impact assessment (Appendix 3) as part of the development of the Article 4 Direction and considers that the making of the Direction itself does not have a direct impact on any groups with protected characteristics.

5. Relevant background/chronology of key events:

- 5.1 This report represents the second stage of a non-immediate Article 4 Direction process; the first stage being the making of the Direction and going out to public consultation and the second stage being to decide whether to confirm the Direction, taking into account the representations made.
- 5.2 The Article 4 Direction is being proposed in response to concerns by local Members and residents about the loss of family homes to increasing numbers of HMOs in the area and the adverse impact on residential amenity caused by clustering. Following a national lobby, the Government introduced new guidance to help enable better management of such areas by introducing a new use class – C4 in which properties occupied by between 3-6 single people were classed as small houses in multiple occupation.
- 5.3 The Cabinet Member for Development, Jobs and Skills jointly with the Strategic Director of Development and Culture on 21 November 2013 authorised the making of a non-immediate Article 4 Direction to remove certain permitted development rights in parts of Selly Oak, Harborne and Edgbaston wards, see map at Appendix 1.
- 5.4 Public consultation ran from 29 November 2013 to 31 January 2014 and the results are summarised in Appendix 2. Individuals and organisations were able to participate through a variety of means including questionnaires, web based responses as well as directly through their attendance at consultation meetings. There was overwhelming support for the introduction of the Article 4 Direction with over 74% of those who commented, agreeing with the aims whilst only 14% opposed it. There was also majority support for the proposed boundary.
- 5.5 The Council received 182 responses during and after the closure of the formal consultation period. A full set of responses is posted on the Council's BeHeard portal for public viewing. The main points raised in support included the need to maintain balanced communities, a more thorough planning and enforcement regime and addressing anti-social behaviour.
- 5.6 The key objection to the boundary of the Article 4 Area was the exclusion of Bournbrook. Bournbrook was excluded on the basis that it is already an imbalanced community with research by the University of Birmingham Guild of Students indicating that up to 85% of properties appear to be operating as HMOs and so its inclusion would jeopardise the successful operation of the policy.
- 5.7 Those who objected to the proposal cited the financial impact on homeowners and the potential to drive up rents for students and disadvantaged groups. They also suggested that this has come too late in the day and that better management of the licensing and enforcement activities would be sufficient.
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- 5.8 In confirming the Article 4 Direction the removal of permitted development rights will come into effect on 30 November 2014. There will then be a requirement for review, as stated in the General Permitted Development Order (GPDO), normally 12 months from the date from which the Direction comes into effect, and which allows the city council to analyse the impact and bring forward proposals for amendments if deemed necessary.
- 5.9 To assist the Council in determining any future applications in the area and to give prospective landlords clear guidance on what is likely to be acceptable, the Planning and Regeneration service is bringing forward a planning policy document that will be subject to separate consultation and approval. This policy will be incorporated into the Council's forthcoming Development Planning Policy DPD.

6. Evaluation of alternative option(s):
6.1 At this stage of the process (having made the Article 4 Direction and carried out the consultation), the options are:
6.1.1 Not to confirm the Direction. There is overwhelming support for the Article 4 Direction from those consulted citing the very issues that the Article 4 Direction is seeking to address that of managing the future spread of HMOs into the surrounding areas beyond Bournbrook.
6.1.2 Make a new Direction with a revised area. The majority of those consulted have supported the proposed area. Of those who disagreed, most wished for the Bournbrook area to be included. However, as the Article 4 Direction is validated by the evidence of the need to maintain a balanced community and Bournbrook is demonstrably already imbalanced in terms of housing tenure type, inclusion would jeopardise the policy. A number of consultees wished for more minor revisions to the boundary and these can be considered at the review stage.
7. Reasons for Decision(s):
7.1 Taking into account the representations received and the responses to these representations, it is recommended that the non-immediate Article 4 Direction as made on 21 st November 2013 is now confirmed.
7.2 There is not considered to be any compelling body of evidence sufficient to outweigh the wider expression of support for the Direction from communities which have been affected by concentrations of HMOs within their neighbourhoods.
7.3 The Article 4 Direction will provide a means for the consideration of future planning applications for all HMOs in the area defined at Appendix 1, so that residential amenity of occupants and surrounding neighbours can be properly considered.

Signatures
<p>Waheed Nazir Director of Planning and Regeneration</p> <p>Dated:</p> <p>Cllr Tahir Ali Cabinet Member for Development, Transport and the Economy</p> <p>Dated:</p>

List of Background Documents used to compile this Report:
1. Cabinet Member report of 21 November 2013 2. Town and Country Planning (General Permitted Development) Order 1995 (as amended) 3. Birmingham Unitary Development Plan (saved 2008)

List of Appendices accompanying this Report (if any):
1. Article 4 Direction and map 2. Summary of Consultation 3. Equalities Analysis