

Cabinet
Council

29th August 2023
5th September 2023

Name of Cabinet Member:

Cabinet Member for Housing and Communities – Councillor D Welsh

Director approving submission of the report:

Director of Streetscene and Regulatory Services

Ward(s) affected:

Cheylesmore, Earlsdon, Foleshill, Lower Stoke, Radford, Sherbourne, St. Michaels, Upper Stoke, Wainbody, Westwood, Whoberley

Title:

Confirmation of Article 4 Direction in respect of Homes in Multiple Occupation (HMO)

Is this a key decision?

Yes - the proposals are likely to have a significant impact on residents or businesses in two or more electoral wards in the city.

Executive summary:

Houses in Multiple Occupancy (HMOs) can provide entry level accommodation but can also bring significant disruption to settled neighbourhoods. In order to ensure that HMOs come forward in ways that integrate with existing neighbourhoods, an Article 4 Direction is proposed in the wards most impacted by HMO's currently, and those most likely to be in the future.

Further to a consultation process undertaken from September 2022, this report now seeks authority to confirm the Article 4 direction, this direction will remove the permitted development rights of changes of use from C3 (dwellinghouses) to C4 (houses in multiple occupation) therefore requiring planning permissions to be sought.

Recommendations:

Cabinet is requested to recommend that Council:

- 1) Approves the confirmation of the Article 4 direction and the undertaking of the necessary legislative steps for implementation of the order.
- 2) Delegates authority to the Director of Streetscene and Regulatory Services, following consultation with the Cabinet Member for Housing and Communities, to authorise any non-substantive changes to the documents.
- 3) Note that if confirmed, the Article 4 Direction will come into force on the 30th September 2023.

Council is requested to:

- 1) Approve the confirmation of the Article 4 direction and including but not limited the undertaking of the necessary legislative steps for implementation of the order.
- 2) Delegate authority to the Director of Streetscene and Regulatory Services, following consultation with the Cabinet Member for Housing and Communities, to authorise any non-substantive changes to the documents.
- 3) Note that if confirmed, the Article 4 Direction will come into force on the 30th September 2023.

List of Appendices included:

The following appendices are attached to the report:

Appendix 1 – Homes in Multiple Occupation Draft Article 4 Direction
Appendix 2 – Public Consultation Report Summary
Appendix 3 - Equality Impact Assessment

Background papers:

None

Other useful documents

Cabinet Report - 30th August 2022 / Council 6th September 2022 - Houses in Multiple Occupancy (HMO) Development Plan Document (DPD) Public Consultation

Cabinet Report - 14th March 2023 / Council 21st March 2023 - Homes in Multiple Occupation Development Plan Document Proposed Submission (Regulation 19) Consultation

Communities and Neighbourhoods Scrutiny Board (4) 6th October 2022 – Houses in Multiple Occupancy (HMO) Development Plan Document (DPD) and Article 4 Direction Public Consultations (Pages 9 – 44)

Coventry City Council Local Plan

Has it or will it be considered by Scrutiny?

Yes – The matter was submitted to Communities and Neighbourhoods Scrutiny Board (4) at their meeting on 6th October 2022, as part of the consultation process.

Has it or will it be considered by any other Council Committee, Advisory Panel, or other body?

No

Will this report go to Council?

Yes – 5th September 2023

Report title:

Confirmation of Article 4 Direction in respect of Homes in Multiple Occupation (HMO)

1. Context (or background)

- 1.1 Houses of Multiple Occupancy are dwellings where unconnected individuals live with communal facilities. As a Council we already administer an additional licencing regime for HMOs which sits separate and distinct to the planning system.
- 1.2. Policy H11 of the Local Plan 2017 addresses 'large' HMOs i.e., those for seven unconnected people or more. However, smaller HMOs do not require planning permission as conversion from a dwellinghouse to a small HMO is a Permitted Development right.
- 1.3. HMOs offer a valuable source of housing to many in the city, often the most vulnerable residents. However, where HMOs predominate in an area there are a number of issues that this can bring, these issues are identified in the draft HMO DPD. The intent is not to stop the development of HMOs but to ensure that they integrate well with the existing environment.
- 1.4 In drawing the boundaries of the Article 4 Direction area, officers have been cognisant of the requirements of the National Planning Policy Framework (NPPF) paragraph 53 for making sure the area is as based on robust evidence and applies to the smallest geographical area possible, whilst also considering the likely impacts on similar dwelling typologies.
- 1.5 On 15 February 2022 Cabinet (minute 77/21 refers) adopted a new Local Development Scheme that set out a timetable for the HMO DPD and Article 4 Direction, this report aligns with these established timelines.
- 1.6 The HMO DPD, which will inform future assessment of HMO planning applications, has been given delegated authority to be submitted to the planning inspectorate by Cabinet and Council in March 2023. This document can however be referred to in assessment of planning applications with 'limited weight' prior to its examination and anticipated adoption.
- 1.7 The Article 4 direction has been subject to public consultation alongside the HMO DPD, with responses to the consultation considered prior to recommendation to confirm the order, these responses are included at Appendix 2 to the report.
- 1.8 Authority is now sought to confirm the order and implement at the earliest opportunity, subject to the undertaking of the required steps in legislation.

2. Options considered and recommended proposal.

- 2.1 Do Nothing - Cabinet could choose not to recommend to Council the confirmation of the Article 4 Direction however, this would limit the Authority in ensuring such accommodation successfully integrates with existing neighbourhoods in the affected Wards. This option is therefore not recommended.
- 2.1. Approve the recommendation in the report - Cabinet is suggested to recommend that Full Council approves the confirmation of the Article 4 direction and the undertaking of the necessary legislative steps of implementation. The reason for supporting this option is set out in the body of this report.

3. Results of consultation undertaken

- 3.1. Included at Appendix 2 to the report is a summary of received representations to the public consultation undertaken on the proposed Article 4 direction. No changes are proposed to the Article 4 direction in response to the representations received, with reasoning outlined within the Appendix.

4. Timetable for implementing this decision.

- 4.1. Further to approval by Cabinet and Council, the Direction will be brought into force at the earliest opportunity, subject to undertaking the necessary legislative steps of implementation.

5. Comments from Chief Operating Officer (Section 151 Officer) and Chief Legal Officer

5.1. Financial Implications

There are no financial implications associated with this report.

5.2. Legal Implications

The process for preparing an Article 4 Direction is set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The only mechanism available to local authorities to remove permitted development rights where they otherwise apply is through a direction under Article 4 of the General Permitted Development Order ("GDPO"). An Article 4 direction removes a specified permitted development right in a defined area. Proposed development that would otherwise be automatically permitted then requires planning permission to proceed. This enables the local authority to determine the merits of the proposed development via a planning application, having regard to its development plan policies and any other material considerations.

In deciding whether to confirm a direction, the local planning authority must take into account any representations received during the consultation period.

Section 108 of the Town and Country Planning Act makes provision for compensation to be payable where an application for planning permission (that would formally have been permitted development) is refused or is granted subject to conditions different from those in the GDPO. However, so long as 12 months' notice is given before the Article 4 direction takes effect, no compensation will be payable.

When considering the recommendations in this report, regard must be given to the public sector equalities duty to eliminate unlawful conduct under the Equality Act 2010. The duty is set out at Section 149 of the 2010 Act. It requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination (both direct and indirect discrimination), harassment and victimization and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. An equalities impact assessment has been carried out which is attached at Appendix 3 of this report.

6. Other implications

6.1. How will this contribute to the One Coventry Plan?

<https://www.coventry.gov.uk/strategies-plans-policies/one-coventry-plan>

This Article 4 Direction will help ensure that resident's quality of life is maintained and that, where an application is appropriate, they are more attractive within their current environment., thereby supporting the aims and objectives of the One Coventry Corporate Plan.

6.2. How is risk being managed?

The Authority has undertaken the required notification steps in order to satisfy the requirements of the legislation and manage the risk of claim to the authority of the introduction of the Article 4 Direction. Due to a delay in publication of the press notice of the proposed order to the 29th September 2022, the proposed introduction date of the Direction has been revised to the 30th September 2023 in order to ensure a full 12 month notice period has been served through all methods of notification. A further round of notification will be undertaken, in line with the requirements of the legislation following the confirmation of the Direction.

6.3. What is the impact on the organisation?

The ratification of the Article 4 Direction is anticipated to create additional planning application workloads, however it is anticipated that this can be managed within existing resource.

6.4. Equalities / EIA?

A full Equality and Impact Assessment (EqIA) was undertaken as part of developing the Local Plan. As part of that analysis, the Council had due regard to its public sector equality duty under section 149 of the Equality Act (2010). The Development Planning Document creates additional policy and so a further EIA has been undertaken (Appendix 3 to the report refers).

6.5. Implications for (or impact on) climate change and the environment?

There is no direct impact from the recommendations of the report.

6.6. Implications for partner organisations?

None

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