

CABINET MEETING – 17 April 2013.

EXECUTIVE SUMMARY SHEET – PART I

Title of Report:

Article 4 Direction: Houses in Multiple Occupation within the wards of Barnes, Hendon, Millfield, St Michael's and St Peter's

Author(s):

Deputy Chief Executive

Purpose of Report:

Cabinet has previously given its approval to the making of an Article 4 direction to withdraw the permitted development rights to change the use of a Dwellinghouse (use class C3) to a House in Multiple Occupation (use class C4) within the wards of Barnes, Hendon, Millfield, St Michael's and St Peter's. This report sets out the process that has been followed since that approval and seeks confirmation of a non-immediate Direction to come into force on 16th December 2013.

Description of Decision:

Cabinet is recommended to:

- a) Authorise the Deputy Chief Executive to confirm the non-immediate direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) ("the 1995 Order") to withdraw permitted development rights to change the use of a C3 Dwellinghouse to a C4 House in Multiple Occupation within the wards of Barnes, Hendon, Millfield, St Michael's and St Peter's after completion of a prior notification period of a minimum of 12 months.

Is the decision consistent with the Budget/Policy Framework? *Yes

If not, Council approval is required to change the Budget/Policy Framework

Suggested reason(s) for Decision:

The Council is satisfied that it is expedient that the conversion of dwelling houses (within Use Class C3) to houses in multiple occupation (HMOs) (within Use Class C4) should not be carried out within the wards of Barnes, Hendon, Millfield, St Michael's and St Peter's unless planning permission is granted on an application. This would allow planning control over proposed future changes of use from C3 to C4 within these five wards where there is a higher concentration of HMOs. This would assist in the promotion and retention of sustainable mixed and balanced communities within these five wards and enable additional HMOs and their effects to be coherently and comprehensively managed through the planning framework.

Alternative options to be considered and recommended to be rejected:

Determine not to introduce an Article 4 Direction and accept the inability to manage new C4 HMO uses and the consequential undermining effect of this on delivering the Council's objectives in the wards referred to in this report where there is a higher concentration of HMOs. This approach would not appear to be justified given the issues/problems arising from higher concentrations of HMOs in the relevant areas of the city as identified by residents and Councillors.

This option has therefore been rejected

Impacts analysed:

Equality Privacy Sustainability Crime and Disorder

Is this a "Key Decision" as defined in the Constitution?

Yes

Is it included in the 28 day Notice of Decisions?

Yes

Scrutiny Committee

ARTICLE 4 DIRECTION: HOUSES IN MULTIPLE OCCUPATION WITHIN THE WARDS OF BARNES, HENDON, MILLFIELD, ST MICHAEL'S AND ST PETER'S**REPORT OF THE DEPUTY CHIEF EXECUTIVE****1.0 Purpose of Report**

- 1.1 Cabinet has previously given its approval to the making of an Article 4 direction to withdraw the permitted development rights to change the use of a Dwellinghouse (use class C3) to a House in Multiple Occupation (use class C4) within the wards of Barnes, Hendon, Millfield, St Michael's and St Peter's. This report sets out the process that has been followed since that approval and seeks confirmation of a non-immediate Direction to come into force on 16th December 2013.

2.0 Description of Decision

- 2.1 Cabinet is recommended to:

Authorise the Deputy Chief Executive to confirm the non-immediate direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) ("the 1995 Order") to withdraw permitted development rights to change the use of a C3 Dwellinghouse to a C4 House in Multiple Occupation within the wards of Barnes, Hendon, Millfield, St Michaels and St Peters after completion of a prior notification period of a minimum of 12 months.

3.0 Background

- 3.1 Members will recall that Cabinet, on 6th September 2012, approved the making of a non-immediate Article 4 direction to withdraw permitted development rights to change the use of a Dwellinghouse (use class C3) to a House in Multiple Occupation (use class C4) within the wards of Barnes, Hendon, Millfield, St Michaels and St Peters with a prior notification period of a minimum of 12 months before the direction comes into force (if confirmed).
- 3.2 To recap, high concentrations of Houses in Multiple Occupation (HMOs) have become an issue in a number of towns and cities across the country particularly those with Universities. High concentrations can have a detrimental effect on the local environment with impacts on social cohesion and services in an area.
- 3.3 From October 2010 changes to planning legislation now allow Use Class C3 (family dwelling houses) to be changed to the newly established Use Class C4 known as Houses in Multiple Occupation (HMO up to 6 people living together as a family), without the need for planning permission. Such a change became "permitted development". After representations from Local Authorities the

Government announced that Article 4 Directions can be issued to remove these “permitted development” rights and thus require an application for planning permission be submitted for such a change in the selected areas.

- 3.4 As approved by Cabinet, on the 6th September 2012, the Council gave notice of its intention to make an Article 4 Direction to come into force for the Wards of Barnes, Hendon, Millfield, St. Michaels and St. Peters on 16 December 2013. The Council notified the Secretary of State and undertook the required statutory consultation which ran for a six week period from 13th December 2012 until 31st January 2013.
- 3.5 It is important to note that requiring an application to be submitted does not mean that it will be refused. It does, however, allow the City Council to consider each case against current adopted policy and to assess the merits and any harm before coming to a decision. It also allows for local residents to be consulted prior to determining such applications and their comments will, where appropriate, be a material consideration in coming to a decision.
- 3.6 Should Cabinet resolve to confirm the Article 4 Direction it will come into force on 16th December 2013.

4.0 Summary of Statutory Consultation Exercise

- 4.1 In order to give landlords, residents and other stakeholders the opportunity to make representations to the Council the following activities were undertaken as part of the public consultation exercise:
- a) Letters were sent to all known landlords and houses in multiple occupation in the city along with other stakeholders such as: Sunderland University; the Landlords Association; and residents groups.
 - b) Site notices were displayed in the wards (Barnes, Hendon, Millfield, St. Michaels and St. Peters) and notices were displayed in local libraries and the Customer Services Centre.
 - c) Residents were informed in Community News, delivered to all households
 - d) An advert was placed in the Sunderland Echo on 13th December 2012. The proposal was also advertised on the Council’s website, which provided the facility for representations to be made electronically.
 - e) The proposed Article 4 Direction was presented by officers of the Council to the Landlord’s Forum meeting.

- 4.2 Two responses in support of the Article 4 Direction were received. Both responses highlighted the desire to control HMO numbers and the associated problems that arise from high numbers of HMO properties in an area.
- 4.3 No written representations were received opposing the Article 4 Direction. One telephone call was received objecting to the Direction from the owner of a number of properties in the Durham Road area, who has long established properties in use as HMOs, and believes he should be able to interchange between the C3/C4 Uses without the need for planning permission.

5.0 Reasons for Decision

- 5.1 The Council is satisfied that it is expedient that the conversion of dwelling houses (within Use Class C3) to houses in multiple occupation (HMOs) (within Use Class C4) should not be carried out within the wards of Barnes, Hendon, Millfield, St Michael's and St Peter's unless planning permission is granted on an application. This would allow planning control over proposed future changes of use from C3 to C4 within these five wards where there is a higher concentration of HMOs. This would assist in the promotion and retention of sustainable mixed and balanced communities within these five wards and enable additional HMOs and their effects to be coherently and comprehensively managed through the planning framework.

6.0 Alternative Options

- 6.1 Determine not to confirm the Article 4 Direction and accept the inability to manage new HMO uses and the consequential undermining effect of this on delivering the Council's objectives in the wards referred to in this report where there is a higher concentration of HMOs. This approach would not appear to be justified given the issues/problems arising from higher concentrations of HMOs in the relevant areas of the city as identified by residents and Councillors. This option has therefore been rejected.

7.0 Relevant Considerations

7.1 Financial Implications

There is currently no fee payable for the need to submit a planning application arising from the removal of 'Permitted Development' by an Article 4 Direction. The Draft Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 were issued in late July 2012 and there is no proposed provision to allow charges to be made in these situations.

7.2 Policy Implications

As set out in the September 2012 Cabinet Report the making of an Article 4 Direction is in accordance with a number of relevant policies.

7.3 Legal Implications

In order for the Council to make an Article 4 direction, it must be satisfied that it is expedient that the development that would otherwise benefit from permitted development rights should not be carried out unless planning permission is granted on an application. For the reasons stated in this report, and in the September 2012 Cabinet report, the Council is satisfied that this test of expediency is met in relation to the withdrawal of permitted development rights for the change of use of a property from Class C3 to Class C4 in those wards in Sunderland referred to in this report.

7.4 Equality Implications

A full Equality Analysis will be completed in parallel with confirmation of the Article 4 Direction. At this stage, it is not considered that there will be any significant implications regarding equality which will be considered as part of the final process to confirm the Direction.

8.0 Background papers

September 2012 Cabinet Report. 'Non-immediate Article 4 Direction to withdraw permitted development rights for the change of use of a dwellinghouse to a House in Multiple Occupation within the wards of Barnes, Hendon, Millfield, St Michaels and St Peters'.