



**Haringey** Council

<b>Report for:</b>	<b>Cabinet 15<sup>th</sup> October 2013</b>	<b>Item Number:</b>	
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<b>Title:</b>	<b>Confirmation of an Article 4 Direction for Houses in Multiple Occupation (HMOs) in East Haringey</b>
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<b>Report Authorised by:</b>	<b>Ransford Stewart, Interim Assistant Director for Planning and Regeneration</b>
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<b>Lead Officer:</b>	<b>Clodagh McGuirk, Planning Policy Officer</b>
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<b>Ward(s) affected:</b> Seven Sisters, Tottenham Green, Tottenham Hale, West Green, Bruce Grove, White Hart Lane, Northumberland Park, Noel Park, Woodside, Bounds Green, Harringay and St Ann's.	<b>Report for Key/Non Key Decisions:</b> Key Decision
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**1. Describe the issue under consideration**

- 1.1 The effect of this report is to withdraw permitted development rights for HMOs in particular locations. It is a planning initiative which forms part of a range of actions by the Council focused on managing the HMOs where there are indications of harm to the social and environmental conditions.
- 1.2 This report follows the Cabinet report dated 18<sup>th</sup> September 2012 which agreed the making of an Article 4 Direction (A4D) removing permitted development rights for changes of use from Use Class C3 to Use Class C4 (i.e. HMO) in wards east of the East Coast Railway line.
- 1.3 The report summarises the outcomes of the public consultation on the introduction of the A4D which took place between 30<sup>th</sup> November 2012 and 11<sup>th</sup> January 2013.
- 1.4 Subject to confirmation by Cabinet this Direction will come into force on the 30<sup>th</sup> November 2013.
- 1.5 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. Current planning legislation allows a family dwelling (Use Class C3) to change to a small HMO of three to six people (Use Class C4) without planning permission.



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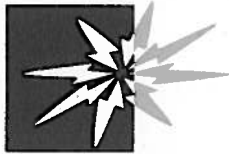
- 1.6 This report proposes the use of an Article 4 Direction to withdraw these 'permitted development rights' to enable the Council to better manage the impact of small HMOs, ensure they are of a high standard if and where they are approved, and protect the important stock of family accommodation.
- 1.7 This proposal is part of an initiative to control HMOs and improve living standards for residents which includes mandatory licensing, discretionary licensing and integrated enforcement.
- 1.8 The Article 4 Direction will be supported by current policies in the Local Plan and the UDP, against which planning applications for HMOs will be determined. The emerging Development Management Policies will replace saved UDP policies when adopted in 2014.

## **2. Cabinet Member introduction**

- 2.1 The implementation of an Article 4 Direction (A4D) will allow the Council to manage the growing trend of over concentrations of HMOs in the east of the borough and the resulting loss of single family dwelling houses. The A4D will allow greater control via planning to determine the appropriateness of new small HMOs on a case by case basis ensuring that approved HMOs provide good quality housing and contribute to sustainable neighbourhoods.
- 2.2 The introduction of an A4D responds to a recommendation from the HMO conference held in November 2011, and approval by Cabinet in September 2012. The proposal was also strongly supported in the public consultation carried out between November 2012 and January 2013.
- 2.3 The introduction of the A4D builds on the work that Haringey Council has undertaken over the last four years which has included increased political leadership through the corporate HMO working group, the creation of the planning enforcement team, and more recently additional licensing measures centred on Harringay Ward and proposals for a further additional licensing scheme in Tottenham. This work has also extended to engagement through the landlord accreditation scheme and close partnership working with the police and fire service. Continued partnership working with local communities and organisations will be essential to the overall success of this tool.

## **3. Recommendations**

- i. Approve the confirmation of an Article 4 Direction to remove permitted development rights for changes of use from Use Class C3 to Use Class C4 in the following wards:
  - Seven Sisters;
  - Tottenham Green;
  - Tottenham Hale;



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- West Green;
  - Bruce Grove;
  - White Hart Lane;
  - Northumberland Park;
  - Noel Park;
  - Woodside;
  - Bounds Green;
  - Harringay; and
  - St Ann's.
- ii. Authorise the Director of Place and Sustainability to carry out the statutory procedure for preparing and issuing the Article 4(1) Direction confirmation notice.

#### **4. Other options considered**

- 4.1 **No Article 4 Direction:** The use of single family dwellings as small HMOs would continue to be permitted development and would not be subject to Haringey's planning policies. This is likely to result in a continued expansion of small HMOs and the Council would not have the ability to apply planning policy requirements for space and amenity standards.
- 4.2 **Voluntary compliance by developers with the Council's planning policies related to HMOs:** While there are many good landlords who would comply, in cases where there was low or no co-operation, the use of single family dwellings as small HMOs would continue to be permitted development and would not be subject to Haringey's planning policies. This would mean that in areas of the borough that have been identified as having poor quality HMO's, occupants would be exposed to low standards of accommodation. It would also mean the overall levels of conversion of family housing could not be monitored.

#### **5. Background information**

- 5.1 Current planning legislation allows a family dwelling (Use Class C3) to change to a small HMO of three to six people (Use Class C4) without planning permission. An Article 4 Direction to withdraw these 'permitted development rights' will enable the Council to better manage the impact of small HMOs, ensure they are of a high standard if and where they are approved, and protect the important stock of family accommodation.
- 5.2 On the 18th September 2012 Cabinet approved the making of the Article 4 Direction to enable the Local Planning Authority to control and manage the number of small HMOs in the east of the borough. The agreed approach involved a 12 month notification period which began on the 30th November 2012.
- 5.3 The 18<sup>th</sup> September 2012 Cabinet report sets out the Council's justification for introducing an A4D in the eastern wards of the borough. The report outlines an



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acute planning problem in east Haringey which is impeding the Council's objectives. Specifically, unrestricted conversion of family houses to small HMOs in east Haringey is causing harm by producing communities within which there is a lack of balance in housing mix, and placing additional housing pressure on existing family housing through unrestricted conversions and resulting in poor standards of accommodation. These effects are contrary to the Council's own planning policy and housing strategy objectives which are to ensure:

- (1) mixed and balanced communities and the protection of family housing
- (2) high quality HMO accommodation that provides a good standard of accommodation for occupiers.

5.4 Appendix 2 of the 18<sup>th</sup> September 2012 Cabinet Report sets out the evidence base supporting the introduction of the A4D.

5.5 The A4D will be supported by new Development Management Plan policies against which planning applications for HMOs will be determined. This proposal also supports the additional licensing scheme proposed for Tottenham wards.

### **Consultation**

5.6 As part of the process of introducing the A4D, the Council sought comments on the proposed Direction. This consultation ran from 30<sup>th</sup> November 2012 until the 11<sup>th</sup> January 2013.

5.7 The Council met statutory consultation requirements, including notification to the Secretary of State, submitting press notices and placing sites notices around the proposal site.

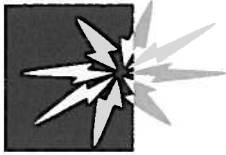
5.8 In addition, notification was sent to all statutory consultees, residents' associations, community groups, local landlords and the wider London landlords' network.

5.9 A total of 24 responses were received, 21 of which expressed strong support for the introduction of the A4D, one opposition, and two no further comments.

5.10 The supportive comments were submitted by individuals, resident's association, Councillors and David Lammy MP; all of which represented Harringay and Tottenham wards.

5.11 The respondents stated that there are too many HMOs in their neighbourhoods which are causing the following problems:

- Excessive noise at all times of the day and night;
- Dumping of rubbish, mattresses and furniture in front gardens and on the street, which in some cases is attracting vermin and foxes;
- Overflowing wheelie bins and bins left on the streets;
- Transient population affecting community spirit;



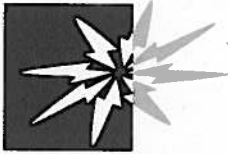
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- Anti social behaviour and increase in criminal activity;
  - Poorly maintained properties; and
  - Insecure properties leading to an increase in burglaries.
- 5.12 The consultees expressed a great concern relating to the 'absentee', 'incompetent' and 'unscrupulous' landlords of these problem HMOs, and for the vulnerable residents who live in them. The respondents believe that in a lot of cases the HMOs provide sub standard and unsafe accommodation, and are overcrowded.
- 5.13 These points support the Council's own research and evidence as set out in the Cabinet report 18th September 2012.
- 5.14 Opposition for the proposal was expressed by the Residential Landlords Association. They point out that there is a demand in Haringey for all types, sizes and tenures of housing, as stated in the Local Plan Strategic Policy 2 and the London Plan, and the introduction of an A4D could decrease the provision of low income housing.
- 5.15 This is a valid point and meeting the housing need in the borough is a Council priority. The Council's planning policies on housing sets out the requirements for new developments to provide 50% affordable housing to ensure that the borough's need for affordable housing is met. This is informed by evidence on the borough's housing need and capacity. An updated Strategic Housing Land Availability Assessment (SHLAA) being carried out by the GLA will identify an increased housing capacity figure for Haringey which will show where and how many new homes can be delivered over the next 20 years to meet demand. Additionally, an updated Strategic Housing Market Assessment (SHMA) is underway and will identify the housing need in the borough. These studies will ensure that we have a clear understanding of the borough's need and capacity, and will contribute to the preparation of the emerging Development Management Policies. When adopted, these policies will be used to assess and determine applications for HMOs.
- 5.16 It is important to note that the purpose of the A4D is not to prohibit HMOs, but rather to manage the concentration of HMOs in certain areas, and to ensure that they meet appropriate standards and provide a high quality living environment.
- 5.17 Although there was a limited response to the consultation considering the number of individual notifications, site notices, press notices and website notification, the responses received showed overwhelming support for the Direction.
- 5.18 A borough wide Article 4 Direction to remove permitted development rights related to small HMOs has already been implemented in the following London Boroughs: Barking and Dagenham as of May 2012; Newham, as of July 2013, and; Hillingdon as of March 2013. The London Borough of Enfield's A4D will come into force at the end of October 2013. In addition, London Borough of Waltham Forest is due to introduce a non-immediate Direction in 2013.



### **Next Steps**

- 5.19 Assuming confirmation by Cabinet, the statutory notification requirements will be carried out on the day the Direction comes into force, 30<sup>th</sup> November 2013. This includes notification to be sent to the Secretary of State; local advertisements in Haringey Independent; and site notices placed at strategic location around the A4D area.
- 5.20 In addition to this an additional notification campaign will be carried out to ensure the information is widely dispersed. We will place a notice in the Haringey People, information will be included on the Council's website, leaflets will be dispersed at community events including Christmas events in the relevant wards, we will attend meetings to engage with landlords, and ensure relevant staff is adequately briefed.
- 6. Comments of the Chief Finance Officer and financial implications**
- 6.1 The costs of the consultation process have been contained within existing budgets. It is envisaged that the costs of implementing and enforcing the Article 4 Direction can also be contained within agreed funding, if this is not the case, any further funding request will need to be agreed by Cabinet.
- 7. Head of Legal Services and legal implications**
- 7.1 The Council needs to be satisfied that using Article 4 Direction powers is necessary to protect local amenity or the wellbeing of the area and must support the presumption in favour of sustainable development and that furthermore there are exceptional local circumstances which leads the Council to wish to withdraw these permitted development rights to respond to local circumstances
- 7.2 Following the making of the Article 4 Direction the results of the consultation exercise must be taken into account before deciding to confirm the Direction.
- 7.3 The making of a non-immediate direction will avoid having to pay compensation.
- 8. Equalities and Community Cohesion Comments**
- 8.1 An Equalities Impact Assessment (EqIA) has been carried out to assess the benefits and adverse affects of the proposed Article 4 Direction.
- 8.2 The EqIA shows that a reduction in availability of HMOs is likely to impact disproportionately on young people, single people, and Black and Ethnic Minority people as they represent a large proportion of HMO tenants in the east of the borough where 100% of the impact will fall, and for whom HMOs may be their only viable housing option. For the same reason, these groups will also benefit disproportionately from improved quality and standards in HMOs. In addition, it is likely that the A4D will have beneficial impacts for neighbouring properties and the



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wider communities through reduction in problems associated with high concentrations of HMOs. The EqIA is available on request.

**9. Head of Procurement Comments – N/A**

**10. Policy Implication**

- 10.1 A strong and effective policy is essential when determining planning applications for small HMOs to ensure the Council's housing needs, and the objective of creating a sustainable community are met. Applications for small HMOs will be determined against the London Plan, Local Plan Strategic Policies and the saved UDP policies, and in line with guidance set out in the Housing SPD and the Mayor's Housing SPG. The emerging Development Management Policies will replace the saved UDP policies and will provide guidance for determining HMO applications.
- 10.2 The emerging policy in the Development Management Policies document relating to HMOs will apply to all large HMOs across the borough as well as small HMOs in the Article 4 Direction area. New policies will also be related to conversion of single family dwellings to self contained flats – although it must be noted that this already requires planning permission and is therefore not affected by the Article 4 Direction. The emerging policy will review and update the current UDP Policy HSG6 Houses in Multiple Occupation.
- 10.3 An early public consultation on the subject matter of the Development Management Policies Document was held between March and May 2013. The outcomes of this consultation will inform the revised version of the document which will be consulted on in June 2014 and will also be the subject of an Independent Examination in Public prior to adoption which is anticipated to be late 2014.

**11. Reasons for Decision**

- 11.1 The implementation of an Article 4 Direction supports the presumption in favour of sustainable development as set out in the National Planning Policy Framework (NPPF) by asking for planning applications to be made to change from a family dwelling to a small HMO. Evidence presented in earlier reports regarding retention of family accommodation supports the case for the Article 4.

**12. Use of Appendices**

N/A

**13. Local Government (Access to Information) Act 1985**

1. Draft Initial Equalities Impact for HMO Article 4 Direction Proposal, August 2012



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2. Declaration of an Article 4 Direction for Houses in Multiple Occupation (HMOs) in East Haringey, 18<sup>th</sup> September 2012
  
3. Evidence Gathering – Housing in Multiple Occupation and possible planning responses (DCLG 2008)