

**CABINET
8 JULY 2025**

**PROPOSED INTRODUCTION OF AN ARTICLE 4 DIRECTION TO CONTROL THE CHANGES OF USE
FROM A DWELLING TO A SMALL HOUSE OF MULTIPLE OCCUPATION (BETWEEN 3-6
RESIDENTS)**

**Responsible Cabinet Member -
Councillor Chris McEwan, Economy Portfolio**

**Responsible Director -
Trevor Watson, Executive Director Economy and Public Protection**

SUMMARY REPORT

Purpose of the Report

1. To seek approval of Cabinet to start the legal process of introducing a Boroughwide Article 4 Direction which would remove the permitted development rights, which allow the change of use from Use Class C3 (dwelling house) to Use Class C4 (small house of multiple occupation between three and six unrelated individuals).

Summary

2. Houses in multiple occupation (HMOs) form part of the borough's privately rented housing provision, contributing to people's housing choices. This form of accommodation is generally more affordable and flexible than other housing types and therefore suitable for younger people and other households that are not living as families. As well as reducing housing costs for individuals, sharing homes can also have positive social benefits for occupiers, helping individuals, especially young people, to form new networks and relationships.
3. However, due to the nature of the accommodation they provide, unless they are properly planned and managed, HMOs can create issues.
4. Currently the change of use from a dwelling to a small house of multiple occupation (one with three - six unrelated individuals) does not require planning permission. Changes of use to larger HMOs (one with more than six unrelated individuals) does require planning consent. The introduction of an Article 4 Direction would result in planning permission being required for those smaller changes of use.
5. It is considered pertinent to introduce a boroughwide Article 4 Direction as the introduction on a smaller geographical area may result in the issues currently being encountered pushed to other areas within the Borough.

Recommendations

6. It is recommended that:-

- (a) The Council indicate their intention to introduce a non-immediate Article 4 Direction to remove the permitted development rights to change a C3 dwelling to a C4 HMO in Darlington.
- (b) If, after the period stated in the notice by which representations may be made (at least 42 days from the date of the notice), no representations objecting to the Article 4 Direction have been received that the Director of Economy and Public Protection is given delegated powers to confirm the Article 4 Direction 12 months following the publication of the notice. If representations objecting to the Article 4 Direction are received then the matter will be brought back to Cabinet for further consideration.
- (c) Supplementary planning guidance is prepared to assist property owners, planning applicants, planning officers and elected councillors in preparing, commenting on and determining planning applications.

Delegations

7. That if, after the period stated in the notice by which representations may be made (at least 42 days from the date of the notice), no representations objecting to the Article 4 Direction have been received that the Director of Economy and Public Protection is given delegated powers to confirm the Article 4 Direction 12 months following the publication of the notice.

Reasons

8. The recommendations are supported by the following reasons:-

- (a) There has been an increase in the number of HMOs and some concerns have been raised about the quality of accommodation they provide and their concentration within certain locations.
- (b) The introduction of an Article 4 Direction will enable the Council to control the location and quality of new HMOs. This will help deliver the Council aspiration of providing quality, affordable housing for all. It would also provide more information on their whereabouts.
- (c) Not to introduce an Article 4 Direction was rejected as a recommendation as it would mean the Council had little control or influence on the establishment of new HMOs, and it is not considered in the best interests of ensuring the delivery of good quality affordable housing for all.
- (d) The introduction of an immediate Article 4 Direction was rejected as an option as it would open the Council up to challenge and potential compensation claims. In addition, it would not allow for effective consultation and engagement on the introduction of Supplementary Planning Guidance to guide new HMO development.

Trevor Watson
Executive Director – Economy and Public Protection

Background Papers

No background papers were used in the preparation of this report.

David Hand : Extension 6294

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| Council Plan | Delivering affordable and secure homes that meet the current and future needs of residents. Creating safer, healthier and more engaged communities |
| Addressing inequalities | Ensuring there is adequate accommodation for all |
| Tackling Climate Change | N/A |
| Efficient and effective use of resources | N/A |
| Health and Wellbeing | Ensuring properties are fit for purpose for the health of residents |
| S17 Crime and Disorder | Controlling the proliferation of HMOs in locations and thereby reducing the possibility of anti-social behaviour |
| Wards Affected | All |
| Groups Affected | N/A |
| Budget and Policy Framework | Minimal financial impact |
| Key Decision | Yes |
| Urgent Decision | N/A |
| Impact on Looked After Children and Care Leavers | N/A |

MAIN REPORT

Information and Analysis

9. A house in multiple occupation (HMO) is defined as being a property occupied by at least three people who are not from one household (such as a family) but share facilities such as a bathroom and kitchen. Such properties are commonly known as house shares or bedsits.
10. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the 'GPDO') makes provision for granting planning permission for certain classes of development without the requirement for a planning application to be made.
11. Under the GPDO, a change of use from a house (which is in planning use class C3) to a large HMO of seven or more people (which does not fall into any of the planning use classes) requires planning permission. However, change of use from a house to a small HMO of between three and six people (which is in planning use class C4), is classed a permitted development and does not require planning permission. This means that the Council cannot currently exercise any planning control over small HMOs.

12. Since 1 October 2018 all HMOs of five or more people have also been subject to mandatory licensing. Licenses are valid for five years and properties are subject to an inspection during this period. If the Council receives complaints regarding a property this will prompt a further inspection and enforcement action may be taken.
13. The existing housing stock in Darlington, especially around the Town Centre and Hospital lends itself to the conversion to small HMOs, but this does not stop new builds being converted as well. One of the issues is that because the conversion to small HMOs does not require planning consent, in most cases does not require building regulations and are outside the licensing regime, we do not know exactly how many HMOs exist in the Borough.
14. More recently, Members have raised concerns about the growth in HMOs in various areas and residents are raising concerns specifically about the number of HMOs in the Greenbank Road area of the town. The Council is often only notified of HMOs where they are raising local issues.

Article 4 Directions

15. Article 4 of the GPDO allows for local planning authorities to remove most of the permitted development rights. There are two types of Article 4 Direction that can be made:
 - (a) Immediate Article 4 Direction – in order to introduce an immediate Article 4 Direction, the local planning authority must consider that the development to which the direction relates would be immediately prejudicial to the proper planning of their area or constitute a threat to the amenities of their area. The Council may be liable to pay compensation for abortive work or other losses associated with the removal of permitted development rights; and
 - (b) Non-immediate Article 4 Direction – this is the more common route for making an Article 4 Directions. To avoid compensation payments, a local planning authority can confirm and publish its intention to make the Direction at least 12 months, and not more than two years, ahead of the Article 4 taking effect.
16. An Article 4 Direction could, therefore, be used by the Council to remove permitted development rights for the conversion of dwelling houses to a small HMOs and require them to be considered through the planning system in the same manner as large HMOs. It would give the Council greater opportunity to manage the overall number of HMOs in the area and mitigate some of the issues attributed to their concentration. It is recommended that a non-immediate Article 4 Direction be pursued, to minimise the financial exposure of the Council.
17. It's important to note that an Article 4 Direction would not ban development of HMOs; it would simply mean that, regardless of size, they would require planning permission.

Justification for introducing an Article 4 Direction

18. HMOs provide a form of low-cost housing, particularly for students, younger people and people on low incomes. They provide flexible accommodation for people with short-term housing requirements. This includes people in-between properties, people employed on short-term contracts and people who are saving to purchase a home. They also provide housing for people that simply prefer to live with large numbers of other people, such as friendship groups. Given the limited number of purpose-built private rented property in the borough, the sector will be reliant on conversion of existing properties.
19. Notwithstanding their importance in meeting housing needs, poor quality HMOs, or an over-concentration of them, can have significant negative impacts and have caused concern to local residents and Members. These concerns include: transient populations; anti-social behaviour; noise and nuisance; changing character of an area; living conditions and property standards; impact on parking and highways; mismanagement of waste; and poorly maintained properties and gardens. This can impact the lives of their sometimes more vulnerable occupants and their surrounding neighbourhoods. In addition, landlords are often better placed to acquire properties than local families, thus undermining the ability of larger family households to meet their needs.
20. The National Planning Policy Framework (NPPF) states that the use of Article 4 Directions should be limited to where it is necessary to protect local amenity or the well-being of the area and in all cases should be evidence based and apply to the smallest geographical area possible. The Planning Policy Guidance (PPG) advises that Article 4 Directions should be limited to situations where it is necessary to protect local amenity or the well-being of the area. The potential harm that the Article 4 Direction is intended to address will need to be clearly identified, and there will need to be a particularly strong justification for the withdrawal of permitted development rights relating to a wide area within the planning authority.
21. The majority of the housing stock in the Borough could be easily converted into three and four bedroom HMOs, this is not confined to the urban area of Darlington and could include new build as well as existing stock. As previously mentioned, the introduction of an Article 4 Direction is not intended to refuse applications but to ensure the accommodation is appropriate for the welfare of the residents and so that it would not cause issues in the surrounding area.
22. Whilst carrying out a search on just one website, it revealed 116 entries for properties advertising spare rooms in the Darlington area. The majority of available rooms were in the Bank Top and Hospital area of the town, but it also identified availability across the Borough including Hurworth and Middleton St George. It must be stressed that was just the interrogation of one website and only of properties which had availability.
23. Analysis indicates that there are a wide distribution of HMOs across the borough, although there appears to be areas of notable concentrations. The evidence has also demonstrated that the borough has greatest need for the delivery of two, three, and four bed homes. In the Private Ownership and Rented sectors this need is highest in respect of three-bedroom dwellings (50%), followed by two-bedroom dwellings (32%). The introduction of a borough wide Article 4 would ensure that the Local Planning Authority are better equipped to manage the location and proliferation of HMO's across the borough to ensure

that the overall housing needs are not detrimentally impacted in certain areas through loss of family sized accommodation.

24. Whilst the advice in the NPPF and the PPG is that an Article 4 Direction should apply to the smallest geographical area possible, the nature of this Article 4 Direction is that it is to ensure that properties are adequate for the wellbeing of occupants and the amenity of the neighbourhood. The identification of a geographical area may push the issue into other areas, so the recommendation is that it is a Borough Wide Article 4 Direction.
25. Research has shown that over 100 local authorities in England have issued Article 4 Directions in relation to HMOs and increasingly these are Borough Wide. Advice from the Ministry of Housing, Communities and Local Government is that an Article 4 Direction can be applied at any time, without the necessity of waiting for an issue to arise.

Planning Policy

26. Whilst Policy H 8 of the current Local Plan gives some guidance on matters that should be considered when dealing with planning applications for changes of use to HMOs it is considered it is prudent to issue further advice in the form of a Supplementary Planning Document and to be included in the forthcoming review of the Local Plan.

Next Steps

27. In order to make an Article 4 Direction, a public notice specifying the date the direction will come into force will need to be made. The Council must advertise the notice of making in the local press (i.e. the Northern Echo) and provide a minimum of 21 days for representations to be made by members of the public. The notice must also be displayed in at least two locations in the area to be covered by the direction for at least six weeks. Given the significant number of properties affected, it is considered impracticable to serve individual notice of the Article 4 Direction on owners and occupiers. Under the GPDO we do not, therefore, need to serve such notice. However, in order to ensure that the consultation is exhaustive and robust and to maximise the reach of the consultation in recognition of the proposed Borough wide geography, it is intended to provide an advertisement period of 42 days rather than the statutory 21.
28. A copy of the Article 4 Direction and notice of making must also be sent to the Secretary of State on the same date the notice is published or displayed. The Secretary of State does not have to approve Article 4 Directions and will only intervene when there are clear reasons for doing so. The Secretary of State has the power to modify or cancel Article 4 Directions at any time before or after they are made but will not use their powers unless there are clear reasons why intervention at this level is necessary.
29. The Council must consider any representations that are received when deciding whether or not to confirm the direction. If a decision is taken to confirm the direction, notice of confirmation will need to be prepared and again advertised in the Northern Echo and the Council's website, and displayed and a copy of the confirmed direction sent to the Secretary of State.

Financial Implications

30. Legal work to undertake the Article 4 Direction including the required press and site notices. The use of a non-immediate Direction reduces the risk of claims for compensation

Legal Implications

31. The decision to make an Article 4 Direction can be subject to judicial review proceedings. If the proceedings are successful, the Article 4 Direction could be quashed. A claim for Judicial Review must be made within six weeks of the notice (unless leave is granted by the Court for an application to be made out of time) and can be made on the grounds of illegality, irrationality or procedural unfairness. In making a decision related to Planning the Council must ensure that it gives proper and full consideration of the provisions of the NPPF and the PPG. Those provisions are set out in paragraph 20 of this report.

Consultation

32. Consultation will be carried out in accordance with the procedural guidance within the General Permitted Development Order, albeit with an extended period allowed for comments to be received. Consultation on Supplementary Planning Guidance will be carried out in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Council's Statement of Community Involvement.