

Delegated powers report

Subject: Article 4 Direction

Date: 7th October 2010

Purpose of this report: This report sets out the reasons for introducing an Article 4 Direction to remove permitted development rights for change of use from Class C3 to Class C4 across the whole City; and seeks the authority of the Head of Planning to make the Article 4 Direction, which is attached in Appendix 1.

Background

The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2010 came into force on 1st October 2010. The Order amends the 1995 (General Permitted Development) Order and makes a change of use from a use falling within Class C3 (dwellinghouses) to a use falling within Class C4 (houses in multiple occupation) 'permitted development' – i.e. planning permission is no longer needed to do this.

Justification for introducing an Article 4 Direction

It is considered that a loss of control over changes of use from C3 to C4 will harm the sustainability of neighbourhoods within Manchester over the long term, which constitutes "damage (to) an interest of acknowledged importance". An increase in concentrations of Houses in Multiple Occupation (HMOs) in an area alters the population mix, impacting on the facilities and services that can be supported, as well as affecting residential amenity and social cohesion; and these issues cannot be addressed successfully by neighbourhood management measures alone. Evidence of the impacts caused by high concentrations of HMOs in Manchester is set out in the evidence section below. In recent years HMOs have encroached into areas traditionally characterised by family housing and the City Council has taken action to try and control this. An interim policy position on HMOs was adopted for development control purposes by the Executive Committee on 10th March which stated that from the 6th April 2010 conversion of a C3 dwelling house to a C4 HMO would not be permitted where this would have a negative impact on the sustainability of neighbourhoods and residential amenity in the surrounding area. The emerging Core Strategy contains a draft policy which uses a threshold approach to control further HMOs in areas which already have high concentrations, and which will control their spread to neighbouring areas.

Local planning authorities may make a direction under Article 4 (1) of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 so that change of use by permitted development must instead require planning permission, where the

local authority is satisfied that this is expedient. It is considered that the evidence (set out below) in Manchester shows that high concentrations of HMOs have a detrimental effect on their local neighbourhood, which amounts to a compelling reason for and justifies HMOs being brought within full planning control in the public interest to ensure that Manchester can respond in a timely way to the emergence of new concentrations so as to prevent harm to localities. This amounts to circumstances which are sufficiently exceptional as to warrant the use of a City-wide Direction in Manchester, and it is intended to use the Article 4 Direction attached in Appendix 1 to do this. From the date when the Direction comes into force all changes of use from C3 to C4 will require planning permission.

Evidence of the impact of high concentrations of Houses in Multiple Occupation

The problems associated with high concentrations of HMOs have been recognised nationally, by residents and organisations, the press and by the government. The study "Evidence Gathering – Housing in Multiple Occupation and Possible Planning Responses" carried out by Ecotec for the government in 2008 summarised the impacts as including:-

- Anti-social behaviour, noise and nuisance
- Imbalanced and unsustainable communities
- Negative impacts on the physical environment and streetscape
- Pressures upon parking provision
- Increased crime
- Growth in private rented sector at the expense of owner-occupation
- Pressure upon local community facilities, and
- Restructuring of retail, commercial services and recreational facilities to suit the lifestyles of the predominant population.

Evidence in Manchester

• Spread of HMOs across the City

Over 50,000 students live in Manchester, with high concentrations - over 20% of households within a Super Output Area claiming exemption from Council Tax because they are entirely occupied by full time students - in privately rented house-shares in the south of the City. In recent years student HMOs have begun to spread further south, particularly in parts of Old Moat and Withington wards, where a number of Super Output Areas have seen concentrations of student council tax exempt households double between 2007 and 2010. This means that the stock of housing available for families is reduced and they become priced out of the area due to the shortage of accommodation available. Based on these past trends, it would appear that there is a "real and specific threat" that permitted development comprising a change of use from Class C3 to C4 would be likely to take place in the future.

In addition to student HMOs there are a large number of HMOs lived in by other groups of unrelated people sharing a house or flat, such as young professionals. However the City Council has no record of these at present

apart from houses which are licensed HMOs (some of which are also student households).

- **Noise and Anti Social Behaviour**

In Manchester the problems are felt most keenly by long-term residents in the areas where student concentrations have risen recently but which traditionally catered for families. Organisations and residents in these areas feel that this is having a negative impact on their residential amenity and comments on Manchester's draft Core Strategy have set out the number of times that residents have been disturbed by noise at night and other forms of anti social behaviour, demonstrating a correlation between student term times and the disturbances caused. The number of incidents of anti social behaviour in Old Moat in 2009/10 was the highest amongst the South Manchester wards (State of the Wards 2009/2010). The percentage of respondents who perceived that there was a problem with drunk and/or rowdy behaviour in their local area in a survey of Manchester residents in 2009/10 was higher than the city average in all wards with high concentrations of HMOs apart from in Rusholme. In the same survey Fallowfield, Old Moat and Withington wards had the highest percentage of respondents who perceived a problem with noisy neighbours or loud parties in the local area for all wards in the City with the exception of the City Centre.

- **Crime**

A number of initiatives have targeted areas with high concentrations of HMOs, particularly in September when new students arrive in Manchester, to try to make them more safety conscious and so reduce crime levels in these areas. However, Old Moat was the ward with the highest volume of domestic burglaries in 2009/10, and Withington the fifth.

- **Environment**

There are a number of environmental problems visible in areas with high concentrations of HMOs such as properties in a state of disrepair, neglected gardens, problems with litter, flytipping and overflowing bins, and parking problems on the street. This is likely to be due to more people living in a HMO than would generally live in the same size house occupied by a family, higher levels of transience meaning that people feel less desire to look after the area if they are only staying there for a short time and landlords who may not maintain their properties to the same level as owner occupiers or longer-term tenants.

Fly tipping cases attended by Neighbourhood Services in Withington and Levenshulme are both above average for the wards in the South Manchester Regeneration Framework area. An operational plan is prepared for the start and finish of each academic year to try and mitigate the environmental problems which are worst at these times.

Scope of the Article 4 Direction

The Direction will cover the whole of the Manchester City Council area. Although high concentrations of HMOs are concentrated in only a few wards,

the City Council wishes to ensure that the problems are not merely dispersed to another part of Manchester. Once the Article 4 Direction comes into force it does not mean that all applications for change of use to a HMO will be refused: the Council will use the Core Strategy policy (once adopted) to determine applications, which does not rule out further HMOs in areas where concentrations are low. In the meantime it will assess change of use applications on the basis of similar, material considerations.

Procedure for introducing the Article 4 Direction

This report formally makes the Article 4 Direction attached in Appendix 1. The City Council will give notice of the Direction and representations will be sought in accordance with the requirements of the Town and Country Planning (General Permitted Development) Order 1995, as amended. It is considered that because of the extent of the Article 4 Direction it is impracticable to serve individual notices on all owners and all occupiers, as permitted by Article 5(2) of the above Order.

Following consideration of any representations, the next stage will be for the Council to confirm the Direction which will be done through another report using delegated powers and advertised as necessary. The Article 4 Direction will come into force on 8th October 2011, a year after notice of making the Direction is given, to ensure that the City Council will have no liability for compensation claims in respect of the loss of permitted development rights. The Direction will come into force automatically on this date, unless the Council receives a direction from the Secretary of State cancelling or modifying it.

I, Peter Babb, Head of Planning, hereby authorise the making of the Article 4 Direction attached for the reasons given in this report.

Signed.....  Date... 7 October 2010