

Delegated powers report

Subject: Confirmation of Article 4 Direction

Date: 17th January 2011

Purpose of this report: This report sets out the steps taken to comply with Article 5 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, the representations made to the local planning authority following the giving of notice of the making of a direction under Article 4(1) of the said GPDO 1995 dated 7th October 2010 and seeks authority to confirm the said direction.

Background

The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2010 came into force on 1st October 2010, which made 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'. This means that planning permission is no longer needed for this type of development. Manchester City Council made an Article 4 (1) Direction on 7th October 2010 removing those permitted development rights across the whole of the City with effect from 8th October 2011. The justification for making the Direction is set out in the delegated powers report dated 7th October 2010. Once the Direction comes into force planning permission will be required for a change of use from Class C3 to C4 house in multiple occupation (HMO). There will be no fee payable to the City Council for this.

Consultation

The City Council gave notice of the making of the Article 4 Direction on 8th October 2010 and consulted on this from 8th – 29th October.

Appendix A of this report contains a copy of the notice as published in the Manchester Evening News on 8th October 2010.

Appendix B contains a copy of the notice as placed at the four locations shown on the plans in Appendix B together with confirmation that the notices were first posted on 8th October 2010 and will be maintained at those locations until they are replaced by the notice confirming the Article 4 Direction on 18th January 2011.

The report dated 7th October 2010 authorising the making of the Direction concluded that it would be impracticable to serve the Direction on every owner or occupier within Manchester as a result of the number of people.

Ten people/organisations made representations, of which six were in support on the Direction and three were objecting/raising concerns. One comment did not express support for or objection to the Article 4 but asked for clarification on certain points.

Supporting representations

People and organisations who supported the Article 4 Direction felt that high concentrations of HMOs caused problems in neighbourhoods, including:-

1. High concentrations of HMOs cause imbalance in communities demographically which changes the nature of these areas in terms of the facilities offered.
2. As the character of these areas is eroded long terms residents have left, to be replaced by a transient adult population.
3. The amount of housing suitable and available for families has been reduced as owner occupation levels fall.
4. Environmental problems associated with HMOs themselves as they are often grossly expanded and frequently neglected: for example refuse in gardens, overflowing bins, 'to let' signs.
5. Anti-social behaviour such as late night noise from individual houses as well as from bars and clubs.
6. Increased crime.
7. There should be an outright moratorium on HMO formation in specific areas.

Objecting representations

Organisations which objected to the introduction of an Article 4 Direction or had concerns about the potential impact of a Direction once it comes into effect raised the following issues:

- A. A citywide Article 4 Direction is not justifiable or necessary: problems associated with high concentrations of HMOs are confined to a few streets only and do not overlap significantly with the non-student population.
- B. Other parts of Manchester suffer from more serious forms of anti-social behaviour and they do not have high concentrations of HMOs.
- C. Identified areas with high concentrations of HMOs should be exempt from any restrictive policies and identified as a 'student community'.
- D. Introduction of an Article 4 Direction is contrary to the government's objective to remove unnecessary planning applications from the system.
- E. The evidence used to justify the Article 4 Direction relates to issues such as anti-social behaviour etc which are not planning considerations.
- F. Object to the negative assumptions made about occupants of HMOs, particularly students. The universities are a key driver for the economy in Manchester and their efficient operation should not be undermined.
- G. Concerns about the unintended negative consequences once an Article 4 Direction comes into effect such as rental increases which could affect student numbers and the need for a rigorous enforcement regime.
- H. The Council needs to make it clear that the Article 4 Direction can be amended quickly in response to strategically important developments as they arise.

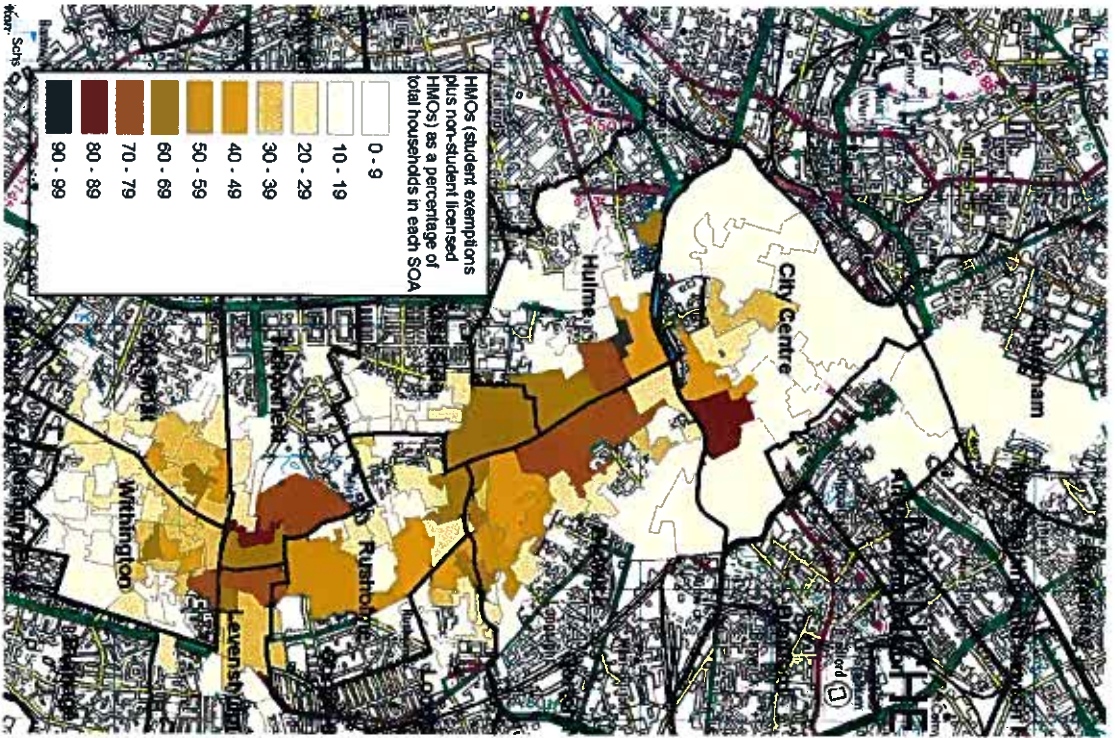
In response to the representations, it is noted that the number in support is greater than the number against.

Need for a City-wide Direction (A)

The Council has mapped concentrations of student council tax exemptions in Manchester using 2010 data, as well as HMOs licensed by the Council which

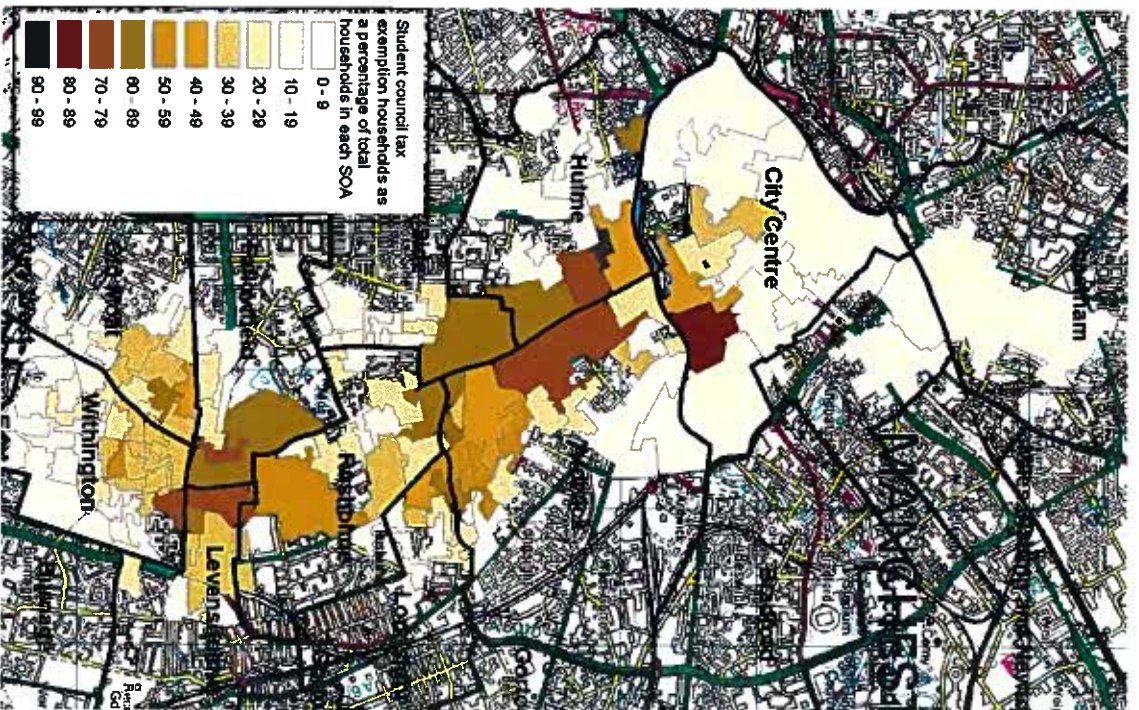
are not occupied by students, to give an indication of the spread across the City (see maps overleaf). The majority of HMOs in Manchester are student houseshares some of which are licensed by the Council as the properties are three or more storeys or have at least five inhabitants.

The maps show that rather than the issue being confined to certain parts of Withington and Fallowfield and not overlapping significantly with non-student residents the HMOs are in fact spread across almost the whole of Withington ward, the eastern parts of Old Moat and Fallowfield wards and the western part of Levenshulme ward, as well as north up the Wilmslow Road/Oxford Road corridor into the City Centre and beyond. The maps show that there are large areas where student households make up between 20-50% of total households, meaning that they are in fact sharing streets and neighbourhoods rather than in a defined area separate from non-student residents. The Council is taking forward a City-wide Article 4 Direction to protect the sustainability of areas where there are currently low concentrations of HMOs: if the boundary for the Direction was drawn more tightly, to include only areas with a high concentration of HMOs, there is a risk that high concentrations of HMOs would develop in neighbourhoods where concentrations are currently low and the Council would not be able to control this.



← Student council tax exemptions plus non-student licensed HMOs as a percentage of total households, by Super Output Area

→ Student council tax exemptions as a percentage of total households by Super Output Area



Anti social behaviour (B)

It is considered that the evidence does justify the need for Article 4 Direction in Manchester: whilst other parts of the City do suffer from more serious forms of anti-social behaviour, it is inappropriate to compare evidence, for example incidents of anti-social behaviour in Withington/Old Moat/Fallowfield/Levenshulme wards, with the City average rather than the average for South Manchester wards, which have a similar socio-economic make up.

Student areas (C)

As the data on student household concentrations demonstrates, student HMOs are spread out across a large area therefore there are no specific areas which could be identified and protected as a student community as there would be a large proportion of non-student residents within any potential area. However there is an increasing supply of student bedspaces in purpose built accommodation within Manchester – in managed purpose built accommodation the negative impacts of large numbers of students living alongside the non-student community can be more easily mitigated.

Government Policy (D)

The government has recently updated guidance on preparing Article 4 Directions, replacing Appendix D to Circular 9/95 in November 2010. The new guidance states that local authorities can make Article 4 Directions covering a wide area such as an entire local authority area where there is strong justification for removal of the permitted development rights (see paragraphs 2.4 and 3.1). Circular 08/2010 relating to planning and HMOs has been published which confirms that it is appropriate for local authorities to use Article 4 Directions to remove permitted development rights for change of use from Class C3 to C4. (see paragraph 2)

Anti-social behaviour not a planning issue (E)

The Article 4 Direction is being brought into force in Manchester to prevent further harm to residential amenity caused by increasing concentrations of HMOs in neighbourhoods in the city. This will protect the sustainability of neighbourhoods into the future. It is considered that problems associated with high concentrations of HMOs such as anti-social behaviour are detrimental to residential amenity and so these issues have been taken into account of in justifying the Article 4 Direction.

Negative assumptions about occupiers of HMOs (F)

As set out in the delegated powers report dated 7th October 2010, the justification for introducing an Article 4 Direction in Manchester is based on evidence which shows that areas with higher concentrations of HMOs suffer from high levels of noise and anti-social behaviour, increased levels of crime and a range of environmental problems. It can also be seen that HMOs have been encroaching into areas traditionally characterised by family housing. The introduction of the Article 4 Direction is based on this evidence rather than assumptions, and it is not considered that the efficient operation of the universities is undermined by the introduction of the Direction.

Unintended consequences (G)

The Council will monitor the situation once the Article 4 Direction is in force and will respond to any unintended consequences by reviewing the Direction or the Core Strategy policy which will be used to control HMOs once the Direction is in force. The City Council will work in partnership with the Universities to make sure that landlords understand the rules and will take enforcement action where necessary in the future.

Amendment of the Direction (H)

Issues relating to control of HMOs once the Direction is in place, such as where they will be permitted, will be dealt with through the Core Strategy policy. The Council will monitor the situation and will be able to review both the Core Strategy policy and the Article 4 Direction which brings HMOs within planning control as opposed to preventing further HMOs. The City Council will work in partnership with the Universities to make sure that landlords understand the rules and will take enforcement action where necessary in the future.

Conclusion

The evidence set out in the delegated powers report dated 7th October 2010 justifies the introduction of an Article 4 Direction to remove permitted development rights for a change of use from a use falling within Class C3 (dwellinghouses) to a use falling within Class C4 (houses in multiple occupation) across Manchester. It is considered that the objections to the Article 4 Direction received by the Council do not warrant amending the Direction made on 7th October 2010, therefore it is requested that the Direction be confirmed without amendment.

The Article 4 Direction will come into effect automatically on 8th October 2011. Planning permission will be required for a change of use from C3 to C4 for a property in Manchester from this date.

I, Peter Babb, Head of Planning, hereby authorise the confirmation of the Article 4 Direction attached at Appendix C so that the Article 4 Direction will come into effect on 8th October 2011. Planning permission will be required for a change of use from C3 to C4 for a property in Manchester from this date.

Signed.....  Date..... 17/01/2011