

Bath & North East Somerset Council

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| MEETING: | Planning, Transport & Environment Policy Development Scrutiny Panel |
| MEETING DATE: | 6 th December 2011 |
| TITLE: | Planning Control (Article 4 Direction) for Houses in Multiple Occupation (HMOs) in Bath |
| WARD: | Bath wards |
| AN OPEN PUBLIC ITEM | |
| List of attachments to this report: Appendix 1: Draft Report "Article 4 Direction for HMOs in Bath" | |

1 THE ISSUE

1.1 A Study into the options and implications of implementing an Article 4 Direction to restrict the future growth of Houses in Multiple Occupation has been undertaken. The recommendations from the draft study are presented here for consideration, in advance of consideration of the issue by the Development Control Committee and Cabinet in March 2012. The suggested options relate not only to planning controls but also to HMO Licencing by Housing Services and other management tools.

2 RECOMMENDATION

2.1 The Panel is asked to consider the findings of the report into the options for, and implications of, implementing controls over the conversion of dwellings into HMOs, and give its views on the proposal that the report to Cabinet on 14th March 2012 will recommend that ;

- a. option 3 of the Consultant's report should be pursued (subject to greater clarity on cost implications),
- b. the implementation of an Article 4 Direction should be preceded by 12 month notice period to avoid third party compensation claims, and
- c. public consultation is undertaken within the 12 month notice period on the likely impacts of the measures selected.

3 FINANCIAL IMPLICATIONS

- 3.1 Each of the 4 options will have different financial implications for the Council, primarily for Planning and Housing Services. The actual costs of each option are difficult to estimate because they are highly dependent on the assumptions made and circumstances eg likely number of future planning applications for HMOs. However further work is underway to attempt quantify these costs before a decision is made in March 2012. Whilst costs relating to licensing can be recouped through charging, this is not the case for additional planning applications arising from an Article 4. Any additional costs arising will therefore need to be considered in 2013/14 when the Direction would become effective if agreed.
- 3.2 It is recommended that a 12 month notice period is given before an Article 4 Direction becomes effective to minimise the risk of potential compensation claims arising from the withdrawal of permitted development rights

4 THE REPORT

The Issue

- 4.1 In June 2011 the Cabinet requested that an Article 4 Direction be implemented in order to exert greater planning controls over the spread and increase in Houses in Multiple Occupation (HMOs) in Bath. Arup was appointed to support the planning Service in gathering the evidence and formulating the options for action.
- 4.2 The primary concern is the effect of the high concentration of student HMOs in parts of Bath, particularly in the wards of Widcombe, Oldfield Park and Westmoreland. However, it should be noted that HMOs also play a wider role in providing housing for groups other than students for example: young professionals and graduates, lower paid workers, singles on housing benefit etc.
- 4.3 Issues of concern expressed by residents have been: inflation of cost of family housing, noise, litter, parking, environmental degradation and poor property maintenance, impact on perception of areas, and other impacts on the community related to high levels of transient population. However the study identifies both the positive and negative impact of HMOs. It also reviewed mechanisms other than planning controls that might contribute to alleviating problems, along with the approach taken in other cities in the UK.
- 4.4 A stakeholder workshop was held in October with local residents, HMO landlords, Business representatives, the Universities, Councillors and cross-service officer representation. Both the Bath Chamber of Commerce and HMO landlords have expressed strong concerns about proposals by the Council to restrict HMO growth in the city using planning or other controls.

Article 4 Direction

- 4.5 An Article 4 Direction would mean that planning permission would be required for a material change of use from a dwelling house (i.e. family house) to a small HMO (3-5 unrelated people living together) although B&NES will **not** be able to collect fees for processing the processing of these applications. Reasons for refusal of planning permission will still be required on a case by case basis and must be based on local policy.

- 4.6 The implementation of an Article 4 Direction needs to be justified and based on evidence and must have a defined geographical coverage. A 12 month notice period is advised prior to implementing to minimise the risk of legal liability issues for planning related costs.

Study Findings and Recommendations

- 4.7 The findings of the study are set out in Appendix 1 to this report. The study has collated a great deal of data on HMOs in the city and concludes that there is no strong link between indicators of harm (e.g. crime data, environmental health, anti-social behaviour and complaints to University hotline etc.) and the concentration of HMOs. However, anecdotal evidence shows that the impacts are more low level and concentrated at street scale.
- 4.8 It is clear that while we have good data on student HMOs, the data on other HMOs that is monitored by the local authority is patchy as there is no requirement for the majority to be registered with the local authority and planning permission is not currently required for change of use.

Options

- 4.9 The study identifies 4 alternative options to pursue. These include both planning controls and other powers under Housing legislation. The study describes the impacts of each, both positive and negative. Further work is required on the financial implications. Option 3 appears to be the most effective although it is also entails the greatest degree of intervention and is likely to be the most costly.

Implementation

- 4.10 An Article 4 Direction can be brought in immediately but it is strongly recommended that a 12 month notice period is given before an Article 4 Direction comes into effect.
- 4.11 The Article 4 Direction does not directly prevent HMOs from being created but merely requires that a planning application will now be required. If the Article 4 Direction is implemented then the Council will need to assess whether it has the appropriate planning policy in place to specify in what circumstances it will refuse planning permission.

Public Consultation

- 4.12 The Council has the discretion to undertake public consultation before an Article 4 Direction is implemented. This will not delay its introduction because this can be undertaken during the 12 month notice period.

5 RISK MANAGEMENT

- 5.1 An assessment of the risks and effectiveness of each of the options has been included within the study.

6 EQUALITIES

- 6.1 The impacts of different groups within the community forms part of the study eg section 4. A full Equalities Impact Assessment is currently underway and will be available before the Panel meeting.

7 CONSULTATION

7.1 *Ward Councillor; Cabinet Member; Other B&NES Services; Local Residents; Community Interest Groups; Stakeholders/Partners; Other Public Sector Bodies;*

7.2 A stakeholder event was held in October 2011 with representatives including ward councillors, Oldfield Park/Westmoreland ward residents, HMO Landlords and Developers, Student Union Representatives, University Representatives and Business Community representatives.

8 ISSUES TO CONSIDER IN REACHING THE DECISION

8.1 *Social Inclusion; Other Legal Considerations(see sections 4 & 6 above)*

9 ADVICE SOUGHT

9.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication. The S151 sign off is on the basis that further work on the costings has still to be done, and any decision would have to be clear on how such costs would be met in accordance with the Council's Budget Management requirements

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| Background papers | Equalities Impact Assessment of the study into Planning Control for Houses in Multiple Occupation(HMOs) in Bath |
| Please contact the report author if you need to access this report in an alternative format | |