

CONSIDERATION AS TO WHETHER TO MAKE AN ARTICLE 4 DIRECTION IN RELATION TO HOUSES IN MULTIPLE OCCUPATION (HMOs) IN SIDMOUTH AVENUE, GOWER STREET, GRANVILLE AVENUE, NORTHCOTE PLACE, AND PART OF KING STREET.

Purpose of the Report

To consider whether an Article 4 Direction should be made to remove permitted development rights for changes of use from dwellinghouses (Use Class C3) to Small Houses in Multiple Occupation (Use Class C4) in Sidmouth Avenue, Gower Street, Granville Avenue, Northcote Place and part of King Street. This would mean that a planning application would be required to carry out such changes of use.

Recommendation

That an Article 4 Direction is not made.

Reasons

Whilst it is accepted that were a significant number of HMOs to be established in the area in question, an overconcentration on Class C4 uses could arise in this location resulting in an imbalanced community increased noise and nuisance, increased pressure on parking spaces, untidy garden and an accumulation of rubbish, it is not anticipated that a significant take up of the permitted right to change dwellings to small HMOs is likely in this location given the current make up of the area.

1. Background

1.1 A request has been received, from ward Councillor Simon Tagg, that the Council consider issuing an immediate Article 4 Direction to remove permitted development rights that allow, without the need for planning permission, changes of use from dwellinghouses (Use Class C3) to small houses in multiple occupation (Use Class C4) within the above area indicated on the plan attached as Appendix A. The reason given for the request is that the news in recent months of a substantial expansion of C4 uses, both in existing and new buildings, has resulted in residents becoming concerned that further changes will be detrimental to the character of the area and will undermine the key planning objective for the promotion of safe and accessible environments where crime and disorder, and the fear of crime and disorder, do not undermine quality of life.

1.2 A further request has been received from the 'Residents at Gower, Granville and Sidmouth' association (RAGGS) who make the following comments:

- the intention of the applicant for the proposed development (application reference 15/00724/FUL) is that the dwellings proposed will ultimately be used as HMOs. This has alerted the community to the ease with which dwellinghouses within the Brampton Conservation Area can become HMOs without a planning application and its consideration.
- The introduction of student HMOs would quite obviously damage the Conservation Area irreparably.

1.3 Use Class C3 is use as a dwellinghouse (whether or not as a sole or main residence) by -
(a) a single person or by people to be regarded as forming a single household;
(b) not more than six residents living together as a single household where care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use falling within Class C4).

- 1.4 Class C4 is use of a dwellinghouse by not more than six residents as a “house in multiple occupation”
- 1.5 A House in Multiple Occupation (or HMO) is a property that is shared by 3 or more tenants who are not living together as a family and who share basic amenities such as a kitchen, bathroom or toilet facilities but have separate bedrooms.
- 1.6 The General Permitted Development Order 2015 (the ‘GPDO’) permits, without the need for planning permission, a change of use of a building from a use falling within Class C4 to a use falling within Class C3 or vice versa. Unless such permitted development rights are removed either through a condition of a planning permission or through what is termed an Article 4 Direction the local planning authority would have no involvement in such changes of use as it would not involve development requiring planning permission.
- 1.7 An Article 4 Direction is a Direction under Article 4 of the GPDO which enables the Secretary of State or the local planning authority to withdraw specified permitted development rights across a defined area.
- 1.8 An Article 4 Direction only means that a particular development cannot be carried out under permitted development and therefore needs a planning application. This gives a local planning authority the opportunity to consider a proposal in more detail.
- 1.9 Article 4 Directions cannot prevent development which has been commenced, or which has already been carried out.

2. **Legal and Statutory Implications**

- 2.1 There are two types of Article 4 Directions under the GPDO: non-immediate Directions and Directions with immediate effect. An immediate Direction can withdraw permitted development rights straight away; however they must be confirmed by the local planning authority within 6 months of coming into effect to remain in force. Confirmation occurs after the local planning authority has carried out a local consultation. In the case of a non-immediate Direction the Council must undertake publicity, inviting comments, by local advertisement, site display (for a period not less than 6 weeks) and by serving notice on the owner and occupier of every part of the land within the area. The non-immediate Direction does not come into force until it has been confirmed by the Local Planning Authority having taken into account any representations received as a result of the above publicity.
- 2.2 The circumstances in which an immediate Direction can restrict development are limited. Immediate directions can, however, be made in relation to development permitted by Part 3 of Schedule 2 to the GPDO which grants permitted development rights for changes of use including changes from small HMOs to dwellinghouses and vice versa (Class L). An immediate Direction can only be made where the local planning authority consider the currently permitted development presents an immediate threat to local amenity or prejudices the proper planning of an area.

3. **Financial and Resource Implications**

- 3.1 If a local planning authority makes an Article 4 Direction, it can be liable to pay compensation to those whose permitted development rights have been withdrawn, but only if it then subsequently refuses planning permission for development which would otherwise have been permitted development.

The grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.

Compensation is only payable if an application for planning permission for certain development formerly permitted by the GPDO is made within 12 months of the Article 4 Direction taking effect. No compensation is payable for the withdrawal of certain permitted development rights (including that of changes of use relating to dwellinghouses and HMOs) if an LPA gives notice of that withdrawal between 12 months and 24 months in advance.

4. **Issues**

- 4.1 The reason given for the Article 4 Direction, in the request received, is that the introduction of HMOs falling within Class C4 will be detrimental to the character of the area and will undermine the key planning objective for the promotion of safe and accessible environments where crime and disorder, and the fear of crime and disorder, do not undermine quality of life.
- 4.2 The government encourages local planning authorities to help maintain balanced communities. A balanced community is defined as one that is not dominated by one particular household type, size or tenure. Overconcentration of HMOs can cause this imbalance. HMO concentrations can, but do not necessarily, also result in increased noise and nuisance, increased pressure on parking spaces, untidy gardens and an accumulation of rubbish. Whilst concentrations of student accommodation may be associated with low level anti-social behaviour, principally associated with the age profile and different expectations of behaviour of those involved and the more permanent host community, significant crime and disorder, however, is not an issue that is generally associated with such concentrations. Given the terraced nature of some of the properties, and the edge of town centre location, there are it is acknowledged already issues of high levels of demand for on-street parking spaces. Were a significant number of HMOs to be established in the area in question, such harm has the potential to arise.
- 4.3 National guidance indicates that the use of Article 4 Directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. To conclude that an Article 4 Direction is justified in this case it is considered necessary to assess the likelihood that permitted development rights will be exercised and that the impacts identified above would arise unless addressed by the Direction. The potential harm that the Direction is intended to address should be clearly identified.
- 4.4 The area that has been suggested for consideration of the imposition of an Article 4 Direction contains a high proportion of large properties a number of which have been subdivided into apartments/flats. Any of the properties currently in use as dwellinghouses, including the apartments/flats, have the potential to be converted into a small HMO falling within Class C4.
- 4.5 As a University town Newcastle does have a relatively high proportion of HMOs due to the student population, although it should be noted that not all HMOs are occupied by students. What HMOs that are in the Borough are concentrated primarily in terraced streets around the town centre and along bus routes, such as in Cross Heath, Silverdale and Knutton. It is known the Keele University propose to increase student numbers to about 13,000, from the current 10,000 and that it will not be able to provide accommodation for the majority of such students and as such more off campus accommodation will be required. Similarly the closure by Staffordshire University of its Stafford Beaconside campus and the relocation of almost 3,000 student places to the University's main Stoke-on-Trent campus is a further factor

- 4.6 In the location that has been promoted for such an Article 4 Direction there are currently only properties which are known by your officers to be HMOs and occupiers of a further similar number of other properties are subject of student council tax exemption, and these may or may not be HMOs. This is a very small percentage of the overall number of properties in the area in residential occupation. Whilst this is a location close to the town centre, where small HMOs falling within Class C4 might be expected because of the available public transport links and proximity to night time facilities, the identified area has not it would appear proved attractive to date for such uses even though planning permission is not required. The construction of purpose built student accommodation, such as on the site of the former Jubilee Baths and on the Ryecroft site, is perhaps likely to reduce the attractiveness of the properties in the identified area for Class C4, although it is too soon to know for certain.
- 4.7 It is accepted that the properties in the area are of a scale where they may be attractive to larger HMOs, as was the Birches 10 Sidmouth Avenue which recently had planning permission refused for its change of use to student accommodation (that decision is now the subject of an appeal). Planning permission, however, is required already for changes of use of dwellings and buildings in other uses to larger HMOs (which do not fall within Use Class C4) and as such consideration could be given to whether the cumulative impact of such uses would give rise to harm in any decisions.
- 4.8 In conclusion, whilst it is accepted that were a significant number of HMOs to be established in the area in question, such harm as identified in paragraph 4.2 has the potential to arise, it is not anticipated that a significant take up of the permitted right to change dwellings to small HMOs is likely in this location. It is not recommended that an Article 4 direction, whether non-immediate or immediate, is made in this case. If, contrary to this recommendation, the Committee consider an Article 4 Direction is to be made it is recommended that at least 12 months and no more than 24 months' notice of the withdrawal of this permitted development right be given.

5 Alternative Options considered

- 5.1 The Article 4 Directions that have been made within the Borough have arisen through Conservation Area Appraisals and as recommendations of within the agreed Management Plans arising from such appraisals. The undertaking of the Appraisal for the Brampton Conservation Area is scheduled next, following completion of the Stubbs Walk Conservation Area Appraisals. Consideration could be given to an Article 4 Direction removing permitted development rights to change from Class C3 to Class C4 uses, along with removal of other permitted development rights, during the Appraisal and preparation of the Management Plan. The recommendation that such an Article 4 Direction is necessary through such a Management Plan will only happen if it is demonstrated that without controls in place through the requirement to obtain planning permission for such a change of use then irreparable harm to the character of the Conservation Area would arise. For the reasons outlined above, it is not expected that the making of such an Article 4 Direction will arise through this process. Furthermore the Conservation Area Appraisal would only focus on the Conservation Area, although consideration would be given to whether any boundary changes were appropriate. Part of the area referred to in Councillor Taggs' request does not lie within the Conservation Area. The map attached as Appendix A indicates the boundary of Conservation Area.
- 5.2 As part of the Local Plan preparation process it may be appropriate to consider where, within the wider Borough, there is the risk of that a concentration of HMOs will be harmful to the identified aims and objectives of that plan. Should it be considered necessary to introduce policies that address the number and location of HMOs it would be appropriate to impose Article 4 Directions in those areas that have been identified at risk of adverse impacts of a concentration of such uses. The benefits of this approach would be that any planning

application that is submitted because permitted development rights have been removed could be considered against adopted policy. It is however not anticipated, for the reasons outlined above, that the area shown on the map attached as Appendix A (Sidmouth Avenue, Granville Avenue, Gower Street, Northcote Place and part of King Street) would be identified as an area where such policies would apply.

6. **Background Papers**

Planning Practice Guidance (PPG) (2014)

7. **Date report prepared**

28th October 2015