



Doncaster Council

Report

Date: 1 May 2018

To the Chair and Members of the
PLANNING COMMITTEE

Article 4 Direction relating Houses in Multiple Occupation

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Councillor Chris McGuinness Cabinet Portfolio Holder for Communities, the Voluntary Sector and Environment Councillor Bill Mordue Cabinet Portfolio Holder for Business, Skills and Economic Development	Town Ward Hexthorpe and Balby North Wheatley Hills and Intake	No

EXECUTIVE SUMMARY

1. A public consultation has recently been completed on a proposed Article 4 Direction and an Additional Licensing Scheme for Houses in Multiple Occupation (HMOs) in parts of central Doncaster.
2. An Article 4 Direction (A4D) is a local determination to restrict permitted development rights under the Town and County Planning Act. It means that a property owner within the A4D area who wants to turn their property into a small HMO of 3-6 people will be required to apply for planning permission, whereas at present they would not need to. The A4D is proposed for the area covered by the plan attached as Appendix 1.
3. Additional licencing gives the Council the power to require all landlords of HMOs included in the scheme to apply for a licence and provide details of the management arrangements and the property. This will enable officers to

know where these properties are and place conditions on the licence holder to ensure minimum standards of safety, welfare and management are maintained.

4. The A4D, being created under the Town and Country Planning Act, is a matter that the Planning Committee may wish to take a view on and make such a view known to Cabinet before it makes a decision to proceed.

EXEMPT REPORT

5. This is not an exempt report.

RECOMMENDATIONS

6. That Planning Committee notes the report and is invited to make any comments for consideration by Cabinet.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

7. The Article 4 Direction (A4D) and Additional Licensing Schemes are intended to bring smaller HMOs up to an acceptable standard, improve conditions for tenants, make safer living arrangements, reduce the impact of these properties on surrounding residents, improve the overall amenities of the area and safeguard the character of urban communities and dwellings.
8. There is a large concentration of smaller HMOs in the Town, Balby North and Hexthorpe and Wheatley Hills and Intake Wards.

BACKGROUND

9. Central wards of Doncaster have a large proportion of HMOs, many of which generate problems of anti-social behaviour. The change in migration patterns, housing benefits and the attraction to property investors of low house prices in Doncaster have all contributed to a large increase in the number of small HMOs.
10. Planning permission is not needed for an HMO consisting of a small shared house occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom. Occupation by more than 6 people in an HMO does require planning permission.
11. An A4D will mean that planning permission will be needed to change a single house into any size of HMO. By making a requirement to apply for planning permission the Local Planning Authority could reject applications if demonstrable harm will result or impose conditions to reduce the impact upon neighbouring residents such as sound insulation and sufficient storage for waste and recycling bins etc. The forthcoming Local Plan will set out criteria for acceptable HMO applications and where these criteria are not met applications could be refused. A4D cannot be applied retrospectively to development undertaken before the direction comes into force.

12. Policies for the Local Plan will need to follow a formal process of publication, consultation and adoption. This has yet to be done. The following is what a policy relating to HMO might look like.

The change of use of existing dwellings and buildings in other uses to self-contained flats or shared accommodation including houses in multiple occupation will be supported where:

- A)** *the existing dwelling or building is capable of conversion without causing harm to the area or the amenity of nearby residents;*
- B)** *i - the proposal will not create more than two HMOs and/or flat conversions side by side,
ii – the proposal will not create the sandwiching of a single self-contained house or flat between two HMOs and/or flat conversions,
iii – the proposal will not create more than two HMOs or self-contained flats within a run of twenty properties on one side of the road, or,
iv – in a road of fewer than twenty properties on one side of the road the proportion of HMO dwellings will not exceed 1 of the residential properties.*
- C)** *the overall size of the dwelling is sufficient to provide proper and adequate accommodation for the number of residents intended to be accommodated;*
- D)** *for HMO's the internal standards of the property are suitable for multiple occupation set out in XXX and have sufficient soundproofing, safety measures, privacy and communal areas and facilities;*
- E)** *for self-contained flats the individual units meet internal space standards set out in XXX and have sufficient soundproofing, safety measures, privacy and facilities;*
- F)** *the external communal areas and facilities are of sufficient size to be able to satisfactorily accommodate waste and recycling bins, cycle storage and on-site parking (unless it can be demonstrated that the site is sustainably located and therefore justifies reduced levels of on-site parking).*

13 Numbers and standards referred to in this draft policy will need to have evidential support before being formally proposed as a Local Plan policy and may change in structure and content. It is included here for the Committee to understand the possible controls being considered.

14 The National Planning Policy Framework states 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. The table below shows the extent of complaints in central wards and the whole borough. 86% of all complaints received about HMOs within the borough in the 5 years 2012 -17 are within the Balby, Hexthorpe, Town, Wheatley Hills and Intake areas. These complaints and the anti-social behaviour in the areas with high concentrations of HMOs, significantly contribute to the justification for creating an A4D to help manage and regulate the concentration of HMOs for the benefit of future residents, nearby residents and the character of the area.

Area	Total No of known HMOs	No of unlicensed HMOs	No Currently Licenced HMOs (percentage licenced)	No of HMOs addresses attracting Complaints (in last 5 year 2012-2017)	Percentage of known HMOs attracting complaints in this area	Total No of complaints re HMOs (in last 5 year 2012-2017)
Borough wide	987	805	182 (18%)	559	57%	2196
Balby North (excluding Hexthorpe)	236	194	42 (18%)	201	85%	768
Hexthorpe	47	45	2 (4%)	46	98%	261
Town	163	64	99 (61%)	88	54%	229
Wheatley Hills and Intake	316	296	20 (6%)	163	52%	538
Balby South	54	47	7 (13%)	24	44%	92
Total for other wards in Doncaster	171	159	12 (7%)	37	22%	308

Table 1; The table shows the area profile of complaints received in respect to HMOs by the Enforcement Team in the period 2012 - 2017.

- 15 The greater benefits will be achieved if the A4D is in operation alongside the Additional Licencing. The A4D working with a Local Plan Policy should deliver greater control and improved conditions in and around future HMOs when initially established. Additional licencing will be a more effective control to ensure that these standards are maintained during the life of the HMO.
- 16 If Cabinet approve the establishment of an A4D the formal legal process of making the A4D will commence. Subject to consideration of any representations received as part of this process, including those of the Secretary of State, the direction is likely to come into force in summer 2019. This includes a 12 month period without which the Council could be liable for compensation payments to property owners who might have sought to benefit from the permitted development rights that the A4D removes.

OPTIONS CONSIDERED

- 17 This report is for members to note and consider any comments it wishes to make to Cabinet about the creation of an A4D. The Committee can decide not to make comments if it so wishes.

REASONS FOR RECOMMENDED OPTION

- 18 To assist Cabinet in its consideration on whether to progress with an A4D.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

19.

	Outcomes	Implications
	<p>Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	<p>The A4D together with the additional licencing will provide a clearer expectation to investors of what is expected for the quality of HMOs in central parts of Doncaster.</p>
	<p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	<p>The A4D will help to improve the living conditions of the occupiers of those living in them and those who live nearby.</p>
	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work 	<p>Improving the living conditions of those within future HMOs may also lead to improved environments for children to learn and develop.</p>

	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	<p>Improved living conditions in HMO's will contribute towards supporting vulnerable individuals</p>
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	<p>The A4D together with additional licencing will operate together in a connected way to meet the aspirations of many communities living within and near to HMOs.</p>

RISKS AND ASSUMPTIONS

20. A potential risk in preparing an A4D is that it could accelerate the conversion of properties within the proposed A4D area during the 12 months formal notification period. Not to have the notification period will leave the council exposed to compensation claims from property owners who might have sought to benefit from the permitted development rights that the A4D removes.

The Direction may disperse the conversion to smaller HMOs to properties just outside the A4D area where planning permission would not be needed for such conversions.

The A4D is made by the council but the Secretary of State can modify or cancel it. This can only be done if there are very clear reasons why intervention at this level is necessary.

LEGAL IMPLICATIONS [Officer Initials KDW Date 19.4.18]

21. An Article 4 Direction once in force means that planning permission is required to convert a dwelling to a small HMO and is no longer automatically permitted. Applications would need to be assessed in the

usual way against national planning policy and policies in the Local Development Plan. As noted within the report, 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

22. For the reasons set out in the report, a minimum period of 12 months of prior notice of the withdrawal of permitted development rights is to be given. There is a statutory framework to follow on the making of an Article 4 Direction. These requirements include formal advertisement of the making of the Article, site notices and obligations to ensure notification to those affected by the Direction though in the latter case the requirement for individual service can be waived where it is considered impracticable due to the number of owner or occupiers within the area. A formal consultation period of 21 days is required, following which any representations received during consultation must be taken into account by the Local Planning Authority in determining whether to confirm the Direction.

FINANCIAL IMPLICATIONS [BC Date 17 4 2018]

22. There are no direct financial implications associated with the recommendation of this report.

If Cabinet approve the establishment of an A4D then the cost of formal notice of the consultation period such as advertising and staff time will be met from existing Planning budget (EE004).

HUMAN RESOURCES IMPLICATIONS [Officer Initials CR Date 17/04/2018]

23. There are no HR Implications in relation to proposals detailed in this HMO Planning committee report.

TECHNOLOGY IMPLICATIONS [Officer Initials PW Date 16/04/18]

24. There are no specific technology implications in relation to this report.

HEALTH IMPLICATIONS [Officer Initials CEH .Date 16.04.18]

25. Poor housing can lead to poor health and exacerbate existing health conditions. The English Housing Survey has identified a higher prevalence of poor housing in the private rented sector compared to other tenures. The areas identified for the A4D and additional licensing scheme fall within the 10% most deprived communities which experience poorer health outcomes than more affluent areas of the borough.

It will be beneficial if the planning and licensing proposals consider the importance that the physical condition of the accommodation has on health and wellbeing and it addresses the need to ensure the housing is safe, warm, well-constructed (e.g to reduce noise) but also provides a health promoting environment providing good facilities for the preparation and consumption of food, secure cycle storage etc.

The post construction management of housing can also play a part in the health and wellbeing of its tenants and can affect community welfare, cohesion and mental wellbeing.

In addition, it is important that these proposals also enable the consideration of the accommodation in relation to the access to other health improving opportunities, for example employment, social networks, essential services and amenities such as green space.

The planning process should also consider the impact of a loss of the type of housing the HMO replaces within that locality and the housing needs for that area (such as loss of large family homes).

EQUALITY IMPLICATIONS [Officer Initials RP Date 18/4/2018]

26. HMOs are most frequently occupied by low income, transient people. The proposal for an A4D will assist in delivering better quality HMOs and regulate their concentration improving the living conditions for occupants and those nearby.

CONSULTATION

27. An informal public consultation has taken place and if the decision is taken by Cabinet to progress with the A4D public consultation will happen at the start of the formal process of making the direction.

BACKGROUND PAPERS

28. None

REPORT AUTHOR & CONTRIBUTORS

Richard Purcell
01302 734862 richard.purcell@doncaster.gov.uk

Peter Dale
Director of Regeneration and Environment