

CITY OF PLYMOUTH

Subject: Article 4 Direction in Respect of Houses in Multiple Occupation (HMOs)

Committee: Growth & Prosperity Overview & Scrutiny Panel

Date: 9 January 2012

Cabinet Member: Councillor Fry, Cabinet Member Planning, Strategic Housing & Economic Development

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Ref:

Key Decision: N

Part: Part I

Introduction

This report is before Scrutiny to consider the comments received for a consultation (Appendix B) that was carried out in relation to the making of an Article 4 Direction (Appendix A), and to consider the recommendations in this report to: 1. Endorse the use of a non-immediate Article 4 Direction, and; 2. Propose to the Cabinet Member for Planning, Strategic Housing and Economic Development that, taking into account the consultation responses received, he should confirm the Direction.

The Article 4 Direction would remove the Permitted Development Rights in certain areas of the City to the effect that planning permission would be required to change the use of a family dwelling (Use class C3) to a House in Multiple Occupation (Use class C4).

Overview

Concentrations of Houses in Multiple Occupation (HMOs), and the geographical concentration of certain groups residing in them, can lead to substantial changes and problems in the nature of particular locations as the characteristics and social infrastructure of a neighbourhood can change. The problems associated with HMOs and the tensions within local neighbourhoods have been well publicised and can include issues such as noise, low-level anti-social behaviour, parking congestion and other environmental impacts.

The Council has considered the use of an Article 4 Direction (A4D) to help control harmful concentrations of HMOs within the city. After making an A4D and carrying out consultation with the community, the Council must now decide whether or not

to confirm the A4D and its associated additional planning control that would come into force on the 14 September 2012.

Some of the issues that may be associated with HMOs are linked to the nature and characteristics of occupiers, including lifestyle and transience, creating a localised impact. There are also cumulative impacts that can arise when the concentrations of HMOs are increased within communities.

A suite of measures exist in relation to the regulation and management of HMOs that involves various bodies, including the City Council. Each tool is capable of preventing, solving or mitigating certain impacts that are as a result of HMOs and will be appropriate in different circumstances:

- Planning Services control the spatial distributions of different uses to ensure that the provision of dwellings (including HMOs) meets demand in a spatially sustainable way;
- The Housing Licensing team provides controls over the state and standard of accommodation that is being offered to tenants;
- The Public Protection Service investigate, and where appropriate enforce, breaches of legislation in relation to noise, litter and other amenity related matters;
- Highways and Transport apply and enforce on street parking restrictions and permits;
- The Anti-Social Behaviour Unit apply legislative powers in relation to individuals' and groups' conduct, and;
- The Building Control team ensure, where the Building Regulation are applicable, the health and safety of people in and around buildings.

Furthermore, the Police play a role where a disturbance of the peace is experienced and the University of Plymouth keep a list of approved HMO properties on their Landlord Accreditation Scheme.

All of these bodies and organisations have a role to play in improving awareness and promoting community cohesion. The most successful approaches to HMOs are those where the council's service providers and external partners work jointly to tackle the challenges that are created. In Plymouth, such a joined up approach takes place with cross service work in partnership with Higher Education Institutions (HEIs), Student Union representatives and the Police.

In order to provide an understanding of the local context as an evidence base for decision making in the context of planning and other disciplines, Plymouth City Council commissioned Arup to produce a report ('Student Housing in Local Communities') into the issue of HMOs. The report was published in January 2011 and showed that certain areas of the city, especially in proximity to the University of Plymouth, experience high concentrations of student HMO properties. The report highlighted that there is concern from residents regarding a range of impacts as a result of HMOs on their communities and on them as individuals, but also that there are other groups such as students and landlords who would not be supportive of additional restrictions on changes of use to HMOs.

Plymouth City Council's adopted Core Strategy promotes a city of sustainable linked communities, where there is an appropriate balance of housing provision and quality of life is provided for all and is currently supported by guidance contained in the Development Guidelines SPD. The evidence from the Arup reports suggests that this principle is under threat in those parts of the city which experience the highest concentrations of HMOs.

Article 4 Directions

Currently planning control by the Council exists only in relation to changes of use of family dwellings (Use Class C3) to HMOs where these are to be occupied by more than 6 un-related individuals ('Sui-Generis' Use). Permitted Development Rights allow the change of use of a dwelling to a HMO with less than 7 occupiers (Use Class C4) without the need to apply for planning permission. In these current circumstances it is difficult for the Council, using its planning powers, to control and manage HMO development so as to ensure that its Core Strategy vision of sustainable and balanced communities is achieved.

As a result of its analysis of the issues, Arup recommended that measures be taken to increase the level of planning control over HMOs in certain parts of the city. This can be achieved through the designation of an Article 4 Direction (A4D) which withdraws the permitted development rights for specified types of development, thereby meaning that planning permission would need to be sought from the local planning authority.

Although A4Ds cannot be applied retrospectively, additional restrictions would aid in achieving the goal of better balanced communities and would ensure that further areas of the city will not exceed significantly harmful concentrations of HMOs.

There are two types of A4D that can be used:

- An Immediate A4D, which would come into effect once the Direction had been confirmed. However, such an A4D would expose the Council to potentially considerable financial risks as disadvantaged landowners could claim compensation for refused planning permissions or if additional restrictions are applied by condition.
- A Non-immediate A4D, which would remove the risk of compensation but requires prior notice of 1 year before it can come into effect.

The existence of an A4D in itself does not dictate the outcome of the resulting planning applications. All planning applications must be judged on their own merits and in accordance with the Core Strategy, the Development Guidelines Supplementary Planning Document (SPD) (which includes some guidance on HMOs) and other local development documents. In addition, the same rights of appeal to the Secretary of State apply.

Cabinet Decision

On the 23rd August, Cabinet resolved to make a non-immediate A4D in line with recommendations contained in the Arup report (see Appendix A). The area covers (approximately) the existing high concentration areas of Mutley & Greenbank, and the City Centre. It also would provide controls in the most at risk parts of the surrounding neighbourhoods of Stonehouse, Stoke, Peverell, Beacon & Pennycross,

Hartley & Mannamead, Higher Compton, Efford, Lipson & Laira, Mount Gould and East End, where future pressures could harm the balance and sustainability of these communities. This, in effect, creates a 'buffer' to ensure that latent demand for HMO housing is not merely located immediately adjacent to existing high concentration areas.

The statutory A4D process requires that, following consultation, the Authority must decide whether or not to confirm the A4D. Cabinet have delegated authority to the Cabinet Member for Planning, Strategic Housing and Economic Development to determine whether to confirm the A4D taking into account any representations received during the six week consultation period, or to instruct further consultation should material changes to the Direction be appropriate as a result of consultation.

The A4D, if it is confirmed, would come into force on 14 September 2012. The changes will not apply retrospectively to properties used as HMOs before the direction comes into force, although all properties within the A4D will have their permitted development rights removed for the type of development specified. It remains possible for a C4 use to be changed back to a C3 use without requiring planning permission from the Council, and this has been the case since 6 April 2010. Change of use to HMOs with more than six unrelated individuals already requires planning permission from the Council.

Article 4 Direction Consultation

The consultation event ran from 13 September 2011 to 25 October 2011. 34 responses were received including 3 from Landlords' Associations and 1 from a Community Group. Notification of the A4D and consultation was made through press coverage, press notice, publication on our website, our online consultation portal and site notices were placed throughout the affected neighbourhoods in excess of the statutory requirements. In addition, officers attended the landlord's forum.

Responses

Please see Appendix B of this report for a summary of the consultation comments and the Council's responses. Of the responses received 24 were in support of the Article 4 Direction and 8 were in objection.

Conclusions

There are advantages and disadvantages to introducing additional planning control through an A4D and these considerations must be weighted carefully. On balance, we consider that the A4D would be an appropriate and useful tool in Plymouth to be able to control harmful concentrations of HMOs within the City.

An Article 4 Direction restricting permitted development rights does have the capacity to affect house prices. Until the additional powers are in place it is difficult to predict the full extent of these forces and this risk is one that must be considered. Should the Direction be confirmed, we will be undertaking a review after 12 months of the Article 4 Direction being in force to assess its impact on markets and property. The Council has the ability to repeal the Article 4 Direction if considered appropriate.

We consider that the proposed area is appropriate given the available evidence of existing concentrations and potential future pressures and that a city wide Article 4 Direction would be unjustified. Careful management of planning applications will be necessary to ensure that sufficient demand for HMO housing is provided in sustainable locations in the City.

It should be noted that any reduction in student occupied HMOs through further development of purpose built student accommodation will not necessarily see these existing HMOs returned to family dwellings. It is possible and indeed likely that many will be occupied by other individuals. However, an A4D supported by sufficient policy guidance will be able to protect against further areas reaching harmful concentrations.

Recommendations

It is recommended that Scrutiny:

- 1 Endorse the use of a non-immediate Article 4 Direction, and;
- 2 Propose to the Cabinet Member for Planning, Strategic Housing and Economic Development that, taking into account the consultation responses received, he should confirm the Direction.

Background Papers

Proposed Non-Immediate Article 4 Direction for Houses in Multiple Occupation Cabinet Report, 23 August 2011

Sustainable Neighbourhoods DPD Representations Summaries, June 2011

Sustainable Neighbourhoods Development Plan Document – Issues and Preferred Options, February 2011

Student Housing in Local Communities, report by Arup, January 2011

Replacement Appendix D to Department of the Environment Circular 09/95: General Development Consolidation Order 1995 (9780117531024), Communities and Local Government, November 2010

Development Guidelines Supplementary Planning Document, April 2010

Evidence Gathering – Housing in Multiple Occupation and possible planning responses Final Report, Communities and Local Government, September 2008

LDF Core Strategy, adopted April 2007

Sustainable Neighbourhood Assessments, Produced between 2005 and 2007

Appendix A

Article 4 Direction and Map

Appendix B

Article 4 Direction Summary of Consultation Comments and Council Responses