



CABINET REPORT

Report Title	Confirming the Immediate Article 4 Direction re Houses in Multiple Occupation in parts of Far Cotton and Delapre
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AGENDA STATUS: PUBLIC

Cabinet Meeting Date:	21 June 2017
Key Decision:	Yes
Within Policy:	Yes
Policy Document:	Yes
Directorate:	Regeneration, Enterprise & Planning
Accountable Cabinet Member:	Councillor Tim Hadland
Ward(s)	Delapre & Briar Hill

1. Purpose

- 1.1 To inform Cabinet about the outcome of the consultation to the Notice of Making of an Immediate Article 4 Direction in parts of Far Cotton and Delapre and to seek approval to confirm the Direction.

2. Recommendations

- 2.1 Cabinet is recommended to confirm the making of an Immediate Article 4 Direction, which will permanently remove permitted development rights for change of use from C3 Dwellinghouses to C4 Houses in Multiple Occupation (HMO) for 3 to 6 unrelated people in parts of Far Cotton and Delapre, as shown on Map 1.

3. Issues and Choices

3.1 Report Background

- 3.1.1 On 15 March 2017, Cabinet agreed to introduce Article 4 Directions (Immediate and Non-Immediate) to withdraw permitted development rights for the change of use within Class C3 dwellinghouses to Class C4 houses in multiple

occupation in areas within Far Cotton, Delapre and Cliftonville. This is because there was evidence to demonstrate that the growth in the concentrations of HMOs in the area needs to be managed.

- 3.1.2 In 2010, the Town and Country Planning (Use Classes) order 1987 (Use Classes Order) was amended which created a new use class for small Houses in Multiple Occupation, Use Class C4 (HMO) and amended Use Class C3 (dwellinghouse). Class C4 (HMO) covers small shared dwellinghouses or flats occupied by between 3 and 6 unrelated individuals who share basic amenities. Planning permission would normally be required for change of use where there is a likelihood that it will create a material change. However, change of use from C3 to C4 is a permitted development right by virtue of Schedule 2 of the General Permitted Development Order 2015 (GPDO). This means that people can convert their property from dwellinghouses to HMOs for 3 to 6 unrelated people without the need for planning approval.
- 3.1.3 Members were informed that the permitted development right may, in exceptional circumstances, be removed by an Article 4 Direction. Express planning permission will be required from the local planning authority. In issuing an Article 4 Direction, there needs to be justification for both its extent and purpose.
- 3.1.4 A Justification Report accompanied the Cabinet report on the 15 March 2017. The report outlined the general problems experienced by local authorities, including Northampton Borough, where there are concentrations of HMOs such as noise, unacceptable amenity space standards and negative impacts on the physical environment and street scene. It presented the findings from Private Sector Housing, in terms of the identified and confirmed existing HMOs in the area, as well as explained the potential impacts of the University of Northampton moving into its new campus location in the town centre.
- 3.1.5 It was agreed that an Immediate Article 4 be issued in parts of Far Cotton/ Delapre because the evidence shows that the concentration of HMOs were increasing in this area and requires immediate management. It was clarified that in issuing the Immediate Article 4 Direction, it does not mean that planning permission will be refused. It means that the Council is able to ensure that demand is met but at the same time make sure that this is balanced against the wellbeing of residents living next door and close to the HMOs. All applications will be determined in accordance with the Development Plan.

3.2 Issues

3.2.1 Consultation on the Immediate Article 4 Direction in parts of Far Cotton and Delapre

- 3.2.1.1 Members noted that an Immediate Direction is where permitted development rights are withdrawn with immediate effect but must be confirmed by the local planning authority following local consultation within six months, or the direction will expire. Cabinet agreed that there is sufficient evidence to demonstrate that changes of use from C3 to C4 presents an immediate threat to local amenity or prejudices the proper planning of an area.

- 3.2.1.2 The Council issued a Notice of Making on the 6 April 2017 and consultation responses were invited between the 6 April and 4 May 2017. Members were informed that all representations received during consultation must be taken into account before the Direction is confirmed. Any material changes to the Direction resulting from the consultation require re-consultation.
- 3.2.1.4 Letters were sent out to statutory consultees, serving them with the Notice of Making and the Order of the Article 4 Direction. Under section 330 of the Town and Country Planning Act 1990 (as amended), statutory consultees are required to provide information about their ownership of any land within the area covered by the Article 4 Direction and also provide details of any other person who may have an interest.
- 3.2.1.5 Letters were also sent out to relevant organisations and associations including National Landlords Association, Northampton Landlords Association, Residents Association, one Parish Council, the Police and the Fire Service. Legal site notices were placed in the local newspaper (Northampton's Chronicle & Echo) and at 3 locations within the Immediate Direction area.
- 3.2.1.6 Local Planning Authorities are required to consider any representations received during the consultation period. It should be noted that 4 responses were received. There were no objections lodged to the Direction. Historic England, Natural England and The Garden Society stated that they had no comments to make. Highways England (Midlands) completed the section 330 form and confirmed that they do not have any interest in the property nor do they know of anyone else who may have interest in the property. There were no other responses associated with declarations of land ownership under section 330.
- 3.2.1.7 This means that the consultation exercise did not result in any need to change the boundary of the Immediate Article 4 Direction. The Immediate Article 4 Direction can therefore be confirmed.
- 3.2.1.8 At Cabinet in March, Members also agreed to impose a Non-Immediate Article 4 Direction to the areas south of the Immediate Direction area and parts of Cliftonville. A map showing the proposed Non-Immediate Article 4 Direction is found on Map 2. Consultation on this proposal is expected to take place in the summer.
- 3.2.1.9 A Non-Immediate Direction must specify the date that the Direction comes into force. This date must be within 28 days and 2 years following the date on which the public consultation period began.

3.2.2 Confirmation of the Direction

- 3.2.2.1 The Immediate Direction was sealed on the 23 March 2017 and came into force on the 6 April 2017. This means that the Direction must be confirmed by the 22 September 2017 or it will expire.
- 3.2.2.2 This report therefore seeks confirmation of the Immediate Direction so that the Direction will become permanent. The responses to the consultation did not require any material change to the Direction.

3.2.3 Compensation

- 3.2.3.1 Members were informed that the NPPG states that 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 subsequently refuses planning permission for development which would otherwise have been permitted development or grants planning permission subject to more limiting conditions than the General Permitted Development Order. 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. Article 4 directions cannot prevent development which has commenced.
- 3.2.3.2 There are circumstances in which local planning authorities may be liable to pay compensation having made an Article 4 Direction, although the potential liability is limited in many cases by the time limits that apply. It adds that all compensation must be made within 12 months of the date on which the planning application for development formerly permitted is rejected (or approved subject to conditions that go beyond those in the GPDO).

3.3 Choices (Options)

3.3.1 Option 1: Confirm the Immediate Direction

- 3.3.2 Given the potential issues and impacts of C4 (HMO) uses in conjunction with the development of the new University campus and its opening in September 2018, this option is recommended. This means that permitted development rights will be permanently withdrawn. The Borough Council will be able to continue managing the growth of HMOs within the immediate direction area, in line with development plan policies.

3.3.3 Option 2: Make a Non Immediate Direction

- 3.3.4 This option could take around 12 months to complete. A Non-Immediate Article 4 Direction must be confirmed by the LPA before it can come into force. In the meantime, the issue associated with concentrations of HMOs in the area identified as already having a high number of HMOs will continue to increase. Property owners will have 12 months to convert their properties into HMOs before the Direction is made therefore adding to the issues associated with the existing HMO concentration in the area.

- 3.3.5 This option does not allow the Borough Council to manage the growth of HMOs and is not therefore recommended.

3.3.6 Option 3: Do Nothing

- 3.3.7 This means that the withdrawal of permitted development rights will expire on the 22 September 2017. This option is not favoured because on that date, the permitted development right returns meaning that people can convert their premises from C3 dwellinghouses to C4 houses in multiple occupation without the need to apply for planning permission. This will exacerbate the issues associated with unmanaged HMO growth and concentrations within the Immediate Article 4 Direction area.

4. Implications (including financial implications)

4.1 Policy

4.1.1 The confirmation of the immediate Article 4 Direction does not remove the issue(s) associated with HMO concentrations completely for the Council as local planning authority. It would result in a permanent requirement to apply planning permission for a change of use from C3 to C4. It does not mean that planning permission will be refused. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The current Development Plan comprises the West Northamptonshire Joint Core Strategy (Local Plan Part 1), the Northampton Central Area Action Plan, Neighbourhood Plans and Supplementary Planning Documents. In addition, the Council also published an Interim Planning Policy Statement on Houses in Multiple Occupation, which provides a range of principles including acceptable threshold levels for HMO concentrations. The Council is also in the process of preparing its Northampton Local Plan Part 2, which will replace all remaining saved policies and update relevant Central Area Action Plan policies.

4.2 Resources and Risk

4.2.1 There will continue to be resourcing implications principally in terms of staff time that would otherwise be used on existing projects/ day to day work for the Council's planning and regeneration services. The Development Management service has and will continue to deal with planning applications that would not have otherwise required planning permission and no fee can currently be levied for these applications.

4.2.2 There will be ongoing implications for the Council's planning enforcement service in respect of monitoring/ evidence gathering and enforcement action as well as additional mapping services from the Planning Policy Section. This will be supported by the Private Sector Housing team in terms of evidence gathering and providing information on licensing.

4.2.3 Once Cabinet confirms the Immediate Article 4 Direction, compensation could be claimed if permission is refused. In pursuing this Immediate Article 4 Direction, compensation would be payable, in the first 12 months, to C4 landlords. This is to compensate for abortive expenditure and other loss/ damage directly attributable to the withdrawal of the permitted development right, such as conversion building works or lost rent. This can include the difference in the value of the land if the development had been carried out and its value in its current state, as well as the costs of preparing the plans for the proposed works and loss of rent. The property owner/ landlord will need to prove that there is a financial loss resulting from the imposition of the immediate Direction.

4.2.4 The implementation of previous Article 4 Directions elsewhere in Northampton have not resulted in payments of compensation, however this remains an option for any current property owners in the area who can prove loss in line

with the areas mentioned above. It is not thought likely that any individual claims would exceed £30,000 per property and with Land Registry indicating 136 properties as having changed hands since 1 January 2016 if all had been purchased with the intention of HMO conversion then then compensation could be over £4m. However as stated with no previous claims received then this scenario is extremely unlikely and not seen as a major risk for the authority.

4.3 Legal

4.3.1 The confirmation of the Direction would require the making of an Article 4 Direction following due legal process as prescribed by the Town and Country Planning (General Permitted Development) Order 2015 as summarised above.

4.3.2 Legal support and advice will be required to confirm the Direction.

4.4 Equality and Health

4.4.1 The Article 4 Direction was the subject of a full Community Impact Assessment. The Assessment identified no specific impacts (negative or positive) for any equality group. There remains a need for good quality affordable accommodation for students and those who share living accommodation in Northampton. The confirmation of the immediate Article 4 Direction means that the Council would continue to ensure that new HMOs are of a high standard and would not lead to any unacceptable impact on neighbour amenity of other interest of acknowledged importance in the interests of all members of the community.

4.4.2 The confirmation of the Immediate Article 4 Direction will remove permitted development rights permanently. This means that the occupiers/ owners of all dwellinghouses in the area affected will continue to require planning permission for the change of use from C3 dwellinghouses to C4 Houses in Multiple Occupation.

4.5 Consultees (Internal and External)

4.5.1 The Council consulted a range of consultees including statutory consultees, national and local landlords associations, residents associations and all Councillors. A press release was posted on the Council's website. Legal Site Notices were placed in 3 locations within the Immediate Article 4 Area and site visits were undertaken weekly to ensure that the Notices were still on site. The Site Notices remained on site for 6 weeks. The Site Notice was also advertised in the Northampton Chronicle & Echo (Thursday 6 April 2017 edition) and on the Council's website. The Secretary of State was also informed.

4.6 How the Proposals deliver Priority Outcomes

4.6.1 The confirmation of the Immediate Article 4 Direction as recommended would introduce controls which would be exercised through the planning application process and associated planning enforcement process to help deliver safer

communities; help those that need it to have a safe and secure home; and to ensure a clean and attractive town for residents and visitors.

4.7 Other Implications

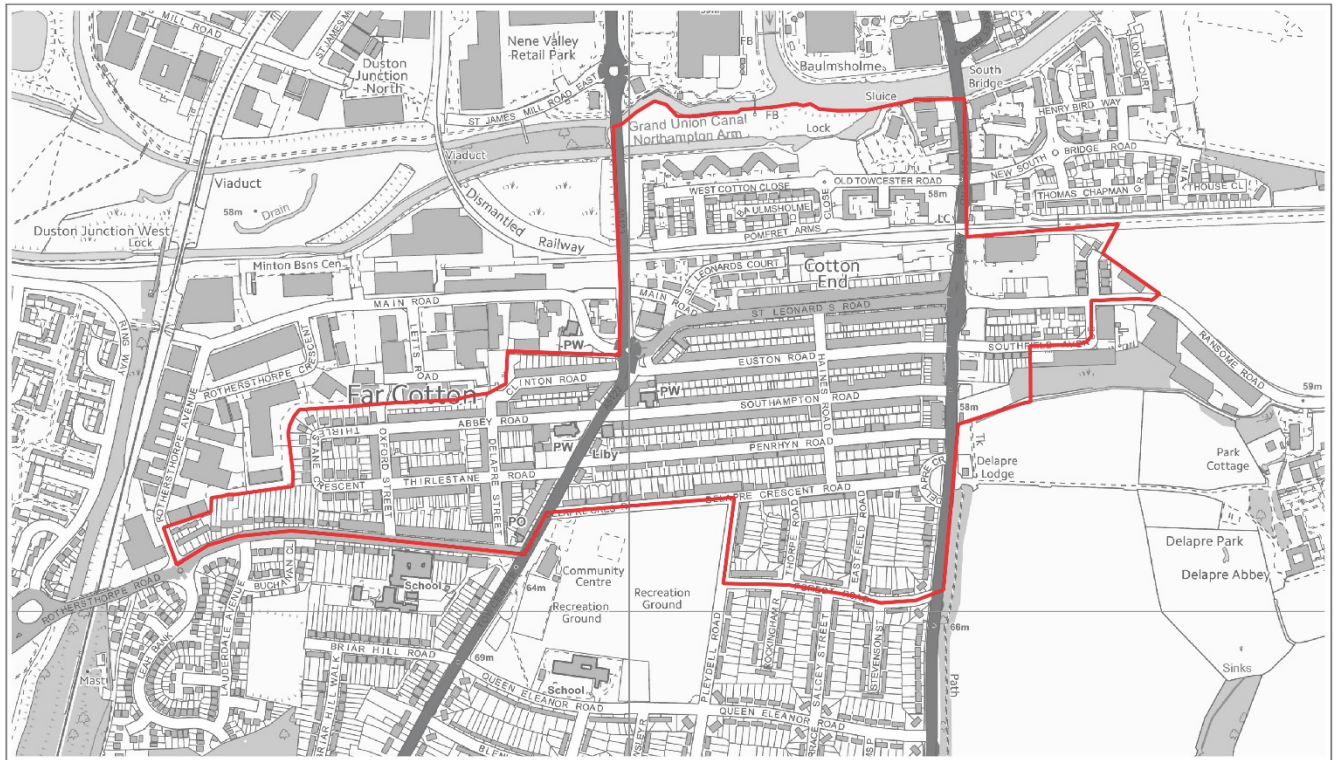
4.7.1 None.

5. Appendices

- 5.1 National Planning Practice Guidance (2014)
- 5.2 Cabinet Report on Article 4 Direction for Houses in Multiple Occupation (March 2017)
- 5.3 Justification Report to Cabinet Report (March 2017)
- 5.4 Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015
- 5.5 The Town and Country Planning (Compensation) (England) Regulations 2015
- 5.6 Town and Country Planning (General Permitted Development) Order 1995 (as amended)
- 5.7 Town and Country Planning (Use Classes) Order 1987 (as amended)

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Map 1: Boundary of the Immediate Article 4 Direction in parts of Far Cotton and Delapre



NORTHAMPTON
BOROUGH COUNCIL

Far Cotton - immediate Article 4 Direction boundary

9 March 2017
not to scale
drawn by M Burgess

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Map 2: Boundary of the Non-Immediate Article 4 Direction in Far Cotton and Delapre (and inset: Cliftonville)

