
PETITION FOR REVIEW OF THE OPERATION OF THE ARTICLE 4 DIRECTION IN RESPECT OF HOUSES IN MULTIPLE OCCUPATION FOR BETWEEN 3-6 RESIDENTS

To: **Cabinet – 3 April 2014**

Main Portfolio Area: **Planning**

By: **Simon Thomas, Planning Manager**

Classification: **Unrestricted**

Ward: **All**

Summary: On 27 February a motion was put to Council which requested a review of the operation of the Article 4 Direction for between 3-6 residents.

The matter was referred to Cabinet for determination and report.

This report explains the background to and effect of the existing Article 4 Direction relating to Houses in Multiple Occupation in Thanet for between 3-6 people and sets out current policy and explains work in progress in reviewing it as part of the new Local Plan now in preparation.

For Decision

1.0 Introduction and Background

1.1 On 27 February the following motion was put to Council and it was resolved to refer the matter to Cabinet for determination and report:

“THAT This Council calls upon the cabinet to review the operation of the Article 4 direction as used within the planning department of Thanet District Council. To residents of St Peter’s ward, it is quite clear that the Article 4 direction powers are not properly applied; lack coherence and application on the ground; and are not being used in the way other councils apply them to the advantage of residents who need family homes rather than back door entry points for HMO’s, which change the character and nature of the area.”

What is an Article 4 Direction?

1.2 In 2011 the Government made changes to the Town and Country Planning (General Permitted Development) Order 1995 which allowed changes of use of dwellinghouses to small HMOs for between 3-6 unrelated people to occur without the need for planning permission. As such for the majority of areas in England planning permission is not required for such changes of use.

- 1.3 Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 allows local planning authorities to make a Direction to remove the rights that exist to carry out certain specified development on land in part or all of its District.
- 1.4 In February 2012 an Article 4 Direction made by Thanet District Council came into effect which removed the right, across the district, to change the use of any residential dwellinghouse to a house in multiple occupation (HMO), for between three and six unrelated people, under Class C4 of the Town and Country Planning Use Classes Order (as amended) . The Article 4 Direction applies to all Wards within Thanet
- 1.5 The effect of the Article 4 Direction is that planning permission is now required, from the Council, for such a change of use; it does not, however, mean that all planning applications for new HMOs will necessarily be refused. In fact the legal requirement is for the Council to decide each planning application on its own merits.

Local Planning policy

- 1.6 The Thanet Local Plan saved policy H11 sets out the criteria against which the Council will assess planning applications for HMOs which includes that consideration will be given to the concentration of such uses within an area. The policy is set out at Annex 1 to this paper.
- 1.7 Following concerns raised by residents of the Wimpy Estate in Broadstairs, the Portfolio Holder for Planning and Housing asked me, to look at whether we could add greater clarity to the interpretation of this policy. Subsequently a report was made to the planning committee on 19 March 2014 in which an interim approach to interpreting policy H11 was put forward.
- 1.8 On 19 March The planning committee accepted this report and, acknowledging that higher concentrations of HMOs can have greater potential to impact on the character and amenity of a neighbourhood, the planning committee resolved that in deciding planning applications for HMOs, it will give special consideration to the impacts of that proposal on an area, where proposal would result in more than 10% of HMOs within a 100 metre radius.
- 1.9 In Cliftonville there is already a restrictive policy in place in the adopted Cliftonville Development Plan Document which imposes a restriction on any further HMO's in the Renewal Area in support of a less transient/benefit dependent and more mixed community within the renewal area.
- 1.10 Officers are currently working with Members on preparing a new Local Plan for Thanet and as part of this work we are reviewing our policies for considering HMO applications.

2.0 The Current Situation

Interim approach to interpreting policy H11

- 2.1 The interim approach to interpreting policy H11 is now in force across the District, which means that planning permission is required for the use of a property for between 3-6 people falling within the use class C4 of the Town and Country planning Use Classes Order where the use is either proposed or began operating as an HMO since before 4 February 2012. It is therefore the decision of the Council as Local Planning Authority as to whether or not to grant planning permission for an HMO or in the case of an existing use whether to commence enforcement proceedings.
- 2.2 The Planning Act requires that decisions are made in accordance with the Development Plan having regard also to other material considerations. The Thanet Local Plan saved policy H11 is the relevant policy and the interim approach adopted by Planning Committee provides assistance to Officers and members in interpreting the application of this policy.

Application of the interim approach on Wimpy Estate

- 2.3 The existing concentration of HMOs on the Wimpy Estate which contains approximately 627 properties is approximately 2.4%. Our research including information from council tax and planning records, indicates that in January 2014 within the area of the Wimpy Estate there are 15 properties used as private student accommodation. This includes properties where any necessary retrospective planning applications have been made. While it is accepted there are a strong local concerns, it is questionable whether the level of evidence supporting them signifies that a community imbalance has been reached.
- 2.4 However, the application of the interim approach will be important so that an appropriate balance is achieved between providing for the needs of students at the nearby Christ Church University campus and East Kent College, which are highly important for delivering the skills required by the local workforce, meeting the expectations of existing and potential employers and stemming out-migration of young people, whilst ensuring that successive increase in HMOs does not cumulatively approach a tipping point undermining the amenity of the area and its enjoyment by a mixed community.
- 2.5 Planning Committee has considered 2 planning applications for HMOs on the Wimpy Estate since the interim approach was agreed. These were decided at the planning committee meeting on 19 March 2014. In both cases the proposed developments did not conflict with the interim approach. One of those applications one was approved and the other refused for reasons of internal layout.

Future Policy-Work in progress

- 2.6 Officers are currently working on the preparation of a new Local Plan for Thanet, including a review the position and this work involves the carrying out of research into the practice of other Councils. It is evident from examples elsewhere that other Councils have adopted or are proposing to adopt policies

based on restricting HMO's to a particular percentage within a given radius or area. Examples visited include 10%, 20% and areas of 50m and 100m radius.

- 2.7 Issues identified in our Local Plan Issues and Options consultation document elicited responses regarding HMO's. (Summarised at Annex 2). Most responses reflected concerns that (particularly where clustered) HMO's can be a driver of social problems/disturbance for local communities, can change the character of neighbourhoods and affect perceptions of the District. Those supporting percentage based restrictions, advocated various levels including 0%, 10%, 15% and 25%. Some responses also supported the idea of area based restrictions including for Cliftonville, the estate adjoining the University campus and other estates characterised by family homes.
- 2.8 Consideration is being given to various policy options, including the question of the appropriate headroom level of HMO's, the impact of how any clustering in local areas should be addressed and whether such provisions should apply to the whole or specific parts of the District.

3.0 Corporate Implications

3.1 Financial

- 3.1.1 The research and development of Local Plan policies is within budget and the decision making process has no additional financial implication, where Members and Officers continue to decide applications on their merits having proper regard to policy and other material considerations and do not act unreasonably in refusing applications for planning permission.

3.2 Legal

- 3.2.1 None

3.3 Corporate

- 3.3.1 The matter relates to the provision of the right number of homes in the right place to create sustainable communities in the future which is Corporate Plan Priority 7.

3.4 Equity and Equalities

- 3.4.1 The current planning policy relating to HMOs aims to increase the accessibility of a range of accommodation to meet the needs of the community whilst ensuring that mixed and balanced communities are maintained and created.

4.0 Recommendation

- 4.1 That Cabinet take no further action.

5.0 Decision Making Process

- 5.1 Cabinet have the final decision with a summary report to be presented to Full Council for information only.

Contact Officer:	Simon Thomas, Planning Manager
Reporting to:	Madeline Homer, Director of Community Services

Annex List

Annex 1	Saved policy H11 of the Thanet Local Plan
Annex 2	Local Plan Issues and Options consultation-summary of responses in respect of HMOs

Corporate Consultation Undertaken

Finance	Sarah Martin, Financial Services Manager
Legal	Harvey Patterson, Corporate & Regulatory Services Manager