



AGENDA ITEM: 5(m)

**PLANNING COMMITTEE:
11 November 2010**

CABINET: 16 November 2010

Report of: Acting Executive Manager Planning

Relevant Portfolio Holder: Councillor M Forshaw

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SUBJECT: ARTICLE 4 DIRECTION ORMSKIRK, AUGHTON AND WESTHEAD

Wards affected: Derby, Scott, Knowsley, Aughton Park, Aughton and Downholland.

1.0 PURPOSE OF THE REPORT

1.1 To seek approval for the making of an Article 4 Direction to control the development of Houses in Multiple Occupation throughout Ormskirk, parts of Aughton and Westhead.

2.0 RECOMMENDATION TO PLANNING COMMITTEE

2.1 That the Committee consider the report and refer any agreed comments to Cabinet for consideration.

3.0 RECOMMENDATION TO CABINET

3.1 That the Acting Executive Manager Planning be given delegated authority to instruct the Council Secretary and Solicitor to make an Article 4 Direction, to withdraw permitted development rights in Ormskirk, Aughton and Westhead for development consisting of a change of use from Class C3 (dwelling houses) to Class C4 (small scale houses in multiple occupation) in accordance with paragraph 6 below.

4.0 BACKGROUND

4.1 On 6th April 2010 a new class of development was introduced into the Town and Country Planning Use Classes Order. Small Houses in Multiple Occupation, with between 3 and 6 residents, were classified separately from dwelling houses. Dwelling houses fall within Class C3 of the Order and a new Class C4 was created for small houses in multiple occupancy with between three and six

residents. Planning permission was required for a change of use of a property from a Class C3 use to a Class C4 use.

- 4.2 The revisions to the Use Classes Order and the creation of a new category of development were introduced to allow Local Authorities to deal with the problems, such as increased noise and loss of community balance which can arise from high concentrations of HMOs.
- 4.3 However, this legislation was applied nationally regardless of whether there was a local need to control HMO development or not. The new Government considered that this was imposing an unnecessary regulatory burden on landlords and local authorities in areas where HMO development was not causing problems.
- 4.4 To redress this problem, the Town and Country Planning (General Permitted Development (Amendment) (England) (No2) Order 2010 was brought into force on 1st October 2010 to give permitted development rights for a change of use of a dwelling house, to use as a small scale house in multiple occupation, shared by three to six people.
- 4.5 As a result of this legislative change, planning permission is no longer required for changes of use from single dwellings to small scale HMOs.
- 4.6 The Government does however still recognise that in some areas concentrations of HMOs can cause problems. In such cases the Government suggest that Local Authorities consider the use of Article 4 Directions to control numbers of HMOs within specific areas by removing the rights granted by the change in legislation.
- 4.7 Therefore, whilst Article 3 of the Town and Country Planning (General Permitted Development) Order permits a change of use from a Class C3 dwelling to a Class C4 HMO as specified in Schedule 2 of the Order, Article 4 of the Order enables a Local Planning Authority to restrict that permission.

5.0. JUSTIFICATION FOR INTRODUCING AN ARTICLE 4 DIRECTION

- 5.1 Members will be aware that the number of students attending Edge Hill is increasing annually. As part of their recent planning application for additional car parking on the University site, a supporting planning statement indicated that in the current academic year there are approximately 25,000 students studying at Edge Hill. Although there is some purpose built student accommodation on the University campus and elsewhere within Ormskirk, much of the accommodation occupied by students is provided in the form of Houses in Multiple Occupancy.
- 5.2. The problems associated with high concentrations of HMOs have been recognized nationally by residents, organizations, the press, and by the Government. The study "Evidence Gathering- Housing in Multiple Occupation and Possible Planning Responses" carried out by Ecotec for the government in 2008 summarised the impacts as including:-
 - Anti-social behaviour;
 - Imbalanced and unsustainable communities;
 - Negative impacts on the physical environment and streetscape;

- Pressure upon car parking;
- Increased crime;
- Growth in private rented sector at the expense of owner occupation;
- Pressure upon community facilities;
- Restructuring of retail, commercial services and recreational facilities to suit the lifestyles of the predominant population.

- 5.3 In respect of recent planning applications for additional student accommodation within Ormskirk, both Members and local residents have expressed some concerns about the impact of HMOs. Problems have been felt most keenly by some long term residents in the areas where student concentrations have risen but which traditionally catered for families. Some Resident Groups and individual house owners in these areas feel that this is having a negative impact on their amenity. The stock of housing for first time buyers within Ormskirk has also reduced as small terraced properties have been bought up by landlords and converted into HMOs. In some instances there may be a number of environmental problems visible in areas with high concentrations of HMOs such as properties in disrepair, neglected gardens, and parking problems.
- 5.4 It is considered that a loss of control over changes of use from C3 to C4 will harm the sustainability of neighbourhoods with Ormskirk and the surrounding urban areas over the long term which constitutes “harm to an interest of acknowledged importance”. An increase in concentrations of HMOs in an area alters the population mix, impacts on the facilities and services that can be supported, as well as affecting residential amenity and social cohesion and these issues cannot be addressed successfully by other mechanisms such as neighbourhood management measures alone. It is considered that the evidence in Ormskirk shows that high concentrations of HMOs can have a detrimental effect on their local neighbourhood, which amounts to a compelling reason for and justifies HMOs being brought within full planning control in the public interest to ensure that concentrations of HMO developments do not cause harm to localities. This amounts to circumstances which are sufficiently exceptional as to warrant the use of an Article 4 Direction.
- 5.5 Whilst at this moment HMOs are concentrated in Ormskirk, there is a concern that the making of an Article 4 Direction for Ormskirk in isolation may push the problem to the adjacent settlements of Aughton and Westhead, which are in close proximity to the University campus. As a result it is proposed that the Direction equally apply to these settlement areas.
- 5.6 Members should be aware that should an Article 4 Direction be brought into force, it does not mean that all planning applications for a change of use to an HMO would be refused. The Council will use a Core Strategy policy (once adopted) to determine applications. This policy will not rule out further HMOs in areas where concentrations are low and there is no basis to believe the proposal will have a detrimental impact on local amenity. Until such time as the Core Strategy is in place, applications for HMOs will be assessed on their merits and in accordance with relevant policies in the West Lancashire Replacement Local Plan.

6.0 PROCEDURE FOR INTRODUCING AN ARTICLE 4 DIRECTION

- 6.1 It is proposed that an Article 4 Direction should cover the whole of Ormskirk, Aughton and Westhead. A copy of a map showing the proposed extent of the Direction is included at Appendix 1.
- 6.2 On 1st October 2010, the Town and Country Planning (Compensation) (No.3) (England) Regulations 1210 came into force. These Regulations reduce local authorities' liability to pay compensation where they make Article 4 directions in respect of HMO developments, as follows:
- where 12 months' notice is given in advance of a direction taking effect there will be no liability to pay compensation; and
 - Where directions are made with immediate effect or less than 12 months' notice, compensation will only be payable in relation to planning applications which are submitted within 12 months of the effective date of the direction and which are subsequently refused or where permission is granted subject to conditions.
- 6.3 To ensure that the Authority would have no liability for compensation claims in respect of the loss of permitted development rights, it is proposed that the Article 4 Direction will come into force in November/December 2011, giving a period of notice of 12 calendar months. Given the extent of the proposed Direction, it is considered that it would be impracticable to serve individual notices on all owners and occupiers as specified by Article 5(2) of the Town and Country Planning (General Permitted Development) Order 1995 as amended. Therefore should the Council be minded to make an Article 4 Direction, the above Order requires that a notice of the Direction be published by an advertisement in the local paper.
- 6.4 Following the consideration of any representations received as a result of the publicity, a further report will be brought before Members. Members will then be in a position to consider any representations received as a result of the publicity and make a decision as to whether to confirm the Direction, which would then be further advertised as necessary. The Direction would come into force in November/December 2011, unless the Council receives notification to the contrary from the Secretary of State.

7.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 7.1 The aim of the Article 4(1) Direction is to control potentially harmful development and ensure the sustainability of neighbourhoods. The introduction of an Article 4 Direction would positively contribute to safeguarding communities.
- 7.2 There are no implications for the community strategy arising from this report.

8.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 8.1 There are no financial implications arising from this report as there is no liability for compensation provided that a 12 month notice period is given prior to the imposition of an Article 4 Direction.

9.0 RISK ASSESSMENT

9.1 There are no risk assessment issues arising from this report.

Background Documents

The Town and Country Planning (General Permitted Development) Order 1995
The Town and Country Planning (General Permitted Development) (Amendment) (No.2)
(England) Order 2010

Equality Impact Assessment

A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report

Appendices

Appendix 1 Map of coverage of proposed Direction

Appendix 2 Equality Impact Assessment