

<b>Title of Report</b>	<b>USE OF ARTICLE 4 DIRECTION: HOUSE IN MULTIPLE OCCUAPTION IN KEGWORTH</b>	
<b>Presented by</b>	Councillor Robert Ashman Planning and Infrastructure Portfolio Holder	
<b>Background Papers</b>	<a href="#">National Planning Policy Framework:</a>  <a href="#">National Planning Practice Guidance:</a>  <a href="#">Housing Act 2004:Part 2</a>  <a href="#">Town and Country Planning (General Permitted Development) (England) Order 2015:</a>  <a href="#">Evidence Gathering – Housing in Multiple Occupation and possible planning responses; Department for Communities and Local Government 2008</a>	<b>Public Report:</b> Yes   <b>Key Decision:</b> Yes
<b>Financial Implications</b>	<p>The cost of preparing and consulting on a possible Article 4 will be met from existing resources.</p> <p>As outlined in the report making an ‘immediate’ Article 4 could result in a cost claim against the Council in the event that planning permission is refused where it is proposed to create a small HMO. Any such additional costs would need to be met from the contingency budget held by the Planning Service.</p>	
	<b>Signed off by the Deputy Section 151 Officer:</b> Yes	
<b>Legal Implications</b>	Detailed in the Report.	
	<b>Signed off by the Deputy Monitoring Officer:</b> Yes	
<b>Staffing and Corporate Implications</b>	None.	
	<b>Signed off by the Head of Paid Service:</b> Yes	
<b>Purpose of Report</b>	To consider the confirmation of an Article 4 Direction in Kegworth prohibiting the change of use of a dwelling to a small House in Multiple Occupation by way of permitted development rights.	
<b>Reason for Decision</b>	In accordance with the Council’s constitution, making an Article 4 Direction falls within the remit of Cabinet.	
<b>Recommendations</b>	<b>THAT CABINET:</b> <ol style="list-style-type: none"> <li>1. <b>CONFIRMS THAT FROM FRIDAY 19 FEBRUARY 2021, THE KEGWORTH ARTICLE 4 DIRECTION 2020 WILL BE APPLIED TO THE VILLAGE OF KEGWORTH TO REMOVE PERMITTED DEVELOPMENT RIGHTS FOR THE CHANGE OF USE OF A DWELLING HOUSE (C3 USE) TO SMALL HOUSES IN MULTIPLE OCCUPATION (C4 USE)</b></li> <li>2. <b>CONSIDER THE PUBLIC COMMENTS RECEIVED DURING THE PUBLICITY PERIOD IN MAKING THEIR DECISION ON THE ABOVE RECOMMENDATIONS,</b></li> <li>3. <b>AUTHORISES THE ISSUE OF PUBLIC NOTICES OF THIS DECISION AND SEND A COPY OF THE NEW DIRECTION TO</b></li> </ol>	

## **1. BACKGROUND**

- 1.1 Kegworth Parish Council have expressed concerns about the high concentration of Houses in Multiple Occupation (HMO) in the village of Kegworth, and the negative impact they are having on its character, well-being and housing profile. They have therefore requested that the District Council consider issuing an Article 4 direction so as to manage the creation of new small HMOs within the village.
- 1.2 Members will recall that a report on Houses in Multiple Occupation in Kegworth and the use of an Article 4 Direction to manage this issues, was considered by this committee on 4 February 2020. At this meeting, the District Council approved the making of a non-immediate Article 4 Direction to the entire village of Kegworth, to withdraw permitted development rights for the change of use from dwelling houses (Use Classes C3) to small HMO's (Houses in Multiple Occupation) (Use Class C4) where between 3 and 6 unrelated people share basic amenities such as a kitchen or bathroom.
- 1.3 Following a consultation period to publicise this Article 4 Direction, approval is now sought to confirm this order which will be brought into effect from Friday 19 February 2021.

## **2 WHAT DID WE CONSULT ON?**

- 2.1 Following this decision the Council undertook an initial 6 week public consultation period to publicise the Article 4 Direction, between Monday 17<sup>th</sup> February 2020 and Monday 30<sup>th</sup> March 2020. It asked for views on the following questions:
  - a) Do you agree with the introduction of an Article 4 Direction in relation to Houses in Multiple Occupation?
  - b) Do you agree with the boundary of the Article 4 Direction?
- 2.2 The Council displayed a number of posters around the village advertising the Article 4 Direction and its consultation, as well as contacting the Parish Council, local ward councillors and other local stakeholders, such as estate agents and the University of Nottingham. The consultation was also publicised on the Council's website with a dedicated webpage, with supporting documents available as well as a leaflet answering frequently asked questions. Posters advertising the Article 4 Direction and consultation were made via social media and advertising material was also made available in Kegworth Library.
- 2.3 However due to an administrative error, a further 6 week consultation period was undertaken between Monday 4<sup>th</sup> May 2020 and Monday 15<sup>th</sup> June 2020. To support this extended consultation and the revised consultation dates, amended site notices were displayed throughout the village and all the consultation material was made available on the Council's website. Local stakeholders were also advised of the extended consultation period as were those who had already made representations. However due to the coronavirus pandemic and the restrictions of movement of the public, a pragmatic approach to the inspection of documents had to be taken. Access to the Council Office and libraries where the consultation documents can normally be viewed, is either not allowed or is severally restricted. Therefore a copy of the Article 4 Direction, Statutory Notice and Map was displayed in the window of the Parish Council Offices.
- 2.4 Also, as required by Regulations:

- A copy of the Statutory Notice was placed in an edition of a local newspaper, namely The Derby Telegraph;
- The county planning authority, Leicestershire County Council, was given notice of the Direction and;
- A copy of the direction, the notice of the direction and associated map was sent to the Secretary of State

2.5 Subsequently, it has been identified that there were drafting errors in the published Article 4 Direction in terms of when it would come into force. Cabinet previously decided that the Article 4 Direction would come in to force after 12 months. The date of 5 February 2021, this date being 12 months after Cabinet's decision of 4 February 2020, was used in the various notices and communications issued in respect of the consultations. However, in accordance with the published Article 4 Direction the date should be 19 February 2021. This does mean that there would be a slightly longer period than intended in which somebody could implement a change of use from a dwellings house to a HMO, but it is only a short time period. It is considered nobody would be prejudiced by this change. A copy of the amended Article 4 Direction is attached as Appendix C, should Members be minded to confirm the Article 4 Direction, as per the recommendation.

2.6 In addition as there are already small HMOs within Kegworth, the consultation has also been used as an opportunity to ask owners of such properties to declare these to the District Council so that they can be recorded as an existing small HMO. However any such declarations can be submitted up to the point that the Article 4 direction takes effect.

### **3 WHAT RESPONSES DID WE RECEIVE?**

3.1 In total we received 19 responses to the initial consultation, the majority from individuals as well as a number of responses from local stakeholders including a district ward member, Kegworth Parish Council and Nottingham University. A summary of all comments received, along with an officer response to each consultation comments, can be found as Appendix A. However the main points raised are as follows:

- All respondents supportive of the introduction of an Article 4 Direction in relation to Houses in Multiple Occupation in Kegworth; and
- All respondents supportive of the boundary for the Article 4 Direction.

3.2 In deciding whether to confirm an Article 4 Direction, the local authority must take into account any representations received during the consultation period and any resulting material changes to the Direction will require re-consultation.

3.3 All representations received to the initial consultation have been in support of the Article 4 Direction and its boundary and no changes have been suggested. With respect to the issues raised by a number of the consultation responses, as the purpose of the Article 4 Direction 2020 is to removed permitted development rights for the conversion of C3 dwelling houses to C4 HMOs, it cannot itself address some of the more specific matters raised such as those concerning, noise, anti-social behaviour, amenity, appearance, refuse, parking and highways. Addressing such matters will require close working between district and county council officers, elected members and external organisations such as the police. In addition, the Local Plan Review will give consideration to the inclusion of a policy in respect of HMOs, which could also address a number of the issues raised.

3.4 Three additional representations were received to the extended consultation and a summary of these comments, along with an officer response, can also be found in Appendix A. Two of these representations object to the Article 4 Direction and one suggests that the date that the Article 4 Direction should take effect be delayed. Having considered these representations it is suggested that no changes, other than that stated at paragraph 2.5 above, are necessary to the Article 4 Direction, the reasons for this approach are detailed in Appendix A.

- 3.5 With respect to the representation which suggests that the 'effective' date for the Article 4 Direction be deferred. The reasoning for this is that a number of properties have been, or may be, converted to a HMO for students, but due to the Covid-19 pandemic, the students may not return until after February 2021 which is the implementation date for the Article 4 Direction. Therefore the HMO will have not been implemented, as it is not become occupied, and planning permission will then be needed due to the presence of the Article 4 Direction. However it would appear that Nottingham University is intending to open for the new term in September 2020, with a mixture of on-site sessions and virtual lectures, leading to a need for student accommodation. It is therefore suggested that there is no justification to defer the implementation date of the Article 4 Direction.
- 3.6 A response has been received from Leicestershire County Council who have advised support for the Article 4 Direction and is summarised in Appendix A.
- 3.7 In addition, a response has now been received from the Secretary of State which has not raised any objections, but has advised of the need to inform the Secretary of State if the Article 4 Direction is confirmed.
- 3.8 Having considered the representations made to the consultation, it is recommended that no changes are needed to the Article 4 Direction, other than that stated at paragraph 2.5 above, and therefore further consultation is not necessary.

#### **4 NEXT STEPS**

- 4.1 Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 requires directions to come into force no less than 28 days and no more than 2 years after first being published. The Cabinet at its meeting on 4 February 2020, resolved the Non-Immediate Article 4 Direction be brought into force after 12 months. Without this 12 month period there would be a risk that developers of HMOs affected by the Article 4 Direction might seek to make compensation claims to the District Council for their financial loss.
- 4.2 In line with the proposed changes set out in paragraph 2.5, the Article 4 Direction will come into force on Friday 19 February 2021. From this date onwards planning permission will be needed to change the use of a dwelling house to any small house in multiple occupation (C4 use).
- 4.3 Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 sets out the process that local authorities are required to follow in making and confirming Article 4 Directions. With respect to confirming an Article 4 Direction, as soon as practicable after a direction has been confirmed, the local planning authority must:
- Give notice of the confirmation and the date on which the Article 4 Direction will come into force and;
  - Send a copy of the Article 4 Direction as confirmed to the Secretary of State.
- 4.4 Following confirmation of such Article 4 Direction, local authorities are required to publicise the Article 4 Direction via the following means:
- Local advertisement of the Article 4 Direction (Local Newspaper);
  - Display of a minimum of two notices in different locations for a minimum period of six weeks;
  - Notify owners and occupiers within the affected area (these regulations can be relaxed where this would be impracticable), for example, site notices can be displayed and be sufficient.

- 4.5 The notice of the confirmation must specify that the Article 4 Direction is made under Article 4 (1) of the Town and Country Planning (General Permitted Development) (England) Order 2015. It must also include a description of the development and the area to which the Article 4 Direction relates along with a statement of the effect of the Article 4 Direction. Details of where a copy of the Article 4 Direction and associated map defining the area to which it relates, can be seen, is also to be provided.
- 4.6 A copy of the notice is provided in Appendix B and a copy of the Article 4 Direction (as confirmed) is provided in Appendix C.
- 4.7 Publicity of the notice is to advise of the Council's confirmation of the Article 4 Direction. There is no requirement for the District Council to consider any further public comments made in response to these notices at this stage of the process. In line with the above regulations, the notices will be issued to the local press (The Derby Telegraph) and displayed in at least two locations in the village of Kegworth. In addition, it is also suggested that all interested parties, including those whom made representations and HMO declarations, are advised of the amended and confirmed Article 4 Direction, and it is confirmed to them when the Article 4 Direction will come into effect.

<b>Policies and other considerations, as appropriate</b>	
Council Priorities:	Our communities are safe, healthy and connected  Local people live in high quality, affordable homes  Developing a clean and green district
Policy Considerations:	None Identified
Safeguarding:	None Identified
Equalities/Diversity:	An Equality Impact Assessment has been undertaken
Customer Impact:	Making an Article 4 Direction would require some customers to submit a planning application, which would potentially entail additional costs.
Economic and Social Impact:	Making an Article 4 Direction will help to protect the social cohesiveness of Kegworth.
Environment and Climate Change:	Making an Article 4 Direction could help to protect the local amenities of Kegworth.
Consultation/Community Engagement:	The proposed Article 4 Direction has been subject to consultation before being confirmed.
Risks:	Making a non-immediate direction would remove the potential cost risk to the Council in respect of compensation claims.  Where a planning application for a HMO is submitted as a result of the Article 4 Direction being in place and that application is then refused, there is no guarantee that a refusal would be supported in a subsequent appeal.
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