

## Article 4 Direction and Houses in Multiple Occupation (HMOs) Position Report

### Synopsis of report:

The purpose of this report is to inform Members about the work that has been undertaken to date to consider introducing Article 4 Direction(s) for HMOs in Runnymede.

It is clear from the data that has been collected and set out in the Briefing Paper accompanying this report (see Appendix A) that whilst HMOs are distributed throughout the borough, there are notable concentrations focused in the north of the borough, particularly in the wards of Egham Town and Englefield Green (East and West). This is likely to be associated with the presence of Royal Holloway University London (RHUL) given their proximity. There are also smaller clusters of HMOs around both Addlestone and Chertsey town centres.

This report, together with the accompanying Briefing Paper (Appendix A), starts to consider whether there is sufficient evidence to introduce an Article 4 Direction(s) (and where further evidence may need to be gathered) to try and control potential adverse issues that are arising as a result of these HMOs, particularly those arising as a result of significant clusters.

The report also summarises what the purpose of an Article 4 Direction for HMOs would be, the process for putting one in place and the actions needed for implementing the Direction(s), and the need for a close relationship between their introduction and the review of the Runnymede 2030 Local Plan.

### Recommendation(s): The Planning Committee are recommended:

- i) **TO NOTE** the findings of the work that has been undertaken to date to investigate the number and potential impacts associated with HMOs in Runnymede;
- ii) **TO AGREE** that the Planning Policy Team should continue to gather evidence on the distribution and impacts of HMOs in Runnymede in tandem with the Local Plan Review, to underpin a future report which will be brought before the Planning Committee to decide whether it is appropriate to introduce an Article 4 Direction(s) in the Borough.

### 1. Context of report

- 1.1 A House in Multiple Occupation, commonly known as an HMO, is a property occupied by at least three people who are not from one 'household' (e.g., a family) but share facilities such as a bathroom and kitchen. Examples include bedsits, shared houses, lodgings, accommodation for workers/employees and refugees.
- 1.2 Planning use classes distinguish between 'small' HMOs of up to six people (C4 use class), and 'large' HMOs of seven or more occupants which are categorised as *sui generis* (i.e., in a class of their own).
- 1.3 On 1 October 2010, the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order introduced a permitted development right to change the use of a building from a single house (C3) to a House in Multiple Occupation (C4) without the need to make a planning application.
- 1.4 Local planning authorities have powers to make an Article 4 Direction under the Town and

Country Planning (General Permitted Development) (England) Order 2015 (as amended) to remove permitted development rights for the area covered by the Direction. Importantly however, the introduction of an Article 4 Direction does not mean all planning applications for a change of use from a dwellinghouse to a Use Class C4 HMO will be refused. The Direction only requires the submission of a planning application for consideration by the Local Planning Authority, and any application will be determined on its merits having regard to the policies in the development plan and any other material considerations.

- 1.5 The National Planning Policy Framework (paragraph 53) requires the use of Article 4 Directions to be limited to situations where it is “necessary to protect local amenity or the wellbeing of the area” and “in all cases, be based on robust evidence, and apply to the smallest geographical area possible.”
- 1.6 The National Planning Practice Guidance (PPG) further states that evidence is required to justify the purpose and extent of the Direction, to demonstrate that such action is needed to protect local amenity or well-being of the area. The PPG also requires the potential harm that the Direction is intended to address to be clearly identified.
- 1.7 The adopted Runnymede 2030 Local Plan does not contain a policy which would resist the principle of converting dwellinghouses to HMOs. Policy SL23 of the adopted Runnymede 2030 Local Plan deals with student accommodation. This policy allows the conversion of houses into HMOs provided that certain specific criteria are met. If an Article 4 Direction were to be introduced for HMOs in parts of the borough, this would be based on evidence gathered to demonstrate why such an approach was considered necessary, and would subsequently underpin a review of Policy SL23 to allow the introduction of stronger policy controls for HMO proposals. This is discussed in more detail in the report below.
- 1.8 The process of making an Article 4 direction is set out within legislation<sup>1</sup>. There are two types of Article 4 direction:
  - An immediate direction - this comes into force the day it is made and must be confirmed within 6 months, or it will lapse.
  - A non-immediate direction - this is made following a decision being taken by the local planning authority, a 12-month notice and consultation period, and then is confirmed when it comes into force.
- 1.9 Planning legislation states that compensation may be payable to applicants if planning permission is refused within 12 months of the serving of an Article 4 Direction, unless 12 months’ notice is given by the local planning authority of their intention to serve the notice. It is for this reason that the vast majority of local authorities who introduce Article 4 Directions in their areas have chosen to introduce non-immediate directions, so as to avoid the risk of having to pay compensation.
- 1.10 The Government changed the wording of para. 53 of the National Planning Policy Framework in 2021, with regards to Article 4 Directions. The purpose of this change was to restrict the use of Article 4 Directions so as to limit the use of them to situations to “where it is essential to avoid wholly unacceptable adverse impacts”, while ensuring that they are “in all cases” applied “to the smallest geographical area possible”. As a result, a number of local authorities have had the boundaries of their Article 4 Directions reduced or refused in recent years. However, these Directions have all related to office to residential uses, as opposed to HMOs. It is not yet therefore known how Directions relating to HMO will be received by the Government, but it is important that if we are to bring forward any Directions in Runnymede, that they are based on robust evidence, and apply to the smallest geographical area possible.

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<sup>1</sup> [The Town and Country Planning \(General Permitted Development\) \(England\) Order 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

## **2. Report and options considered**

- 2.1 The purpose of this report is to inform Members of the work that has been undertaken to date to consider the merits of putting in place Article 4 Direction(s) for parts of Runnymede Borough and to consider what the next steps should be and the timing for any subsequent work, in the light of the current pause to the work on the review of the Runnymede 2030 Local Plan.
- 2.2 Officers were investigating the evidence to justify introducing Article 4 Direction (s) for HMO in the borough during 2022 with the intention of presenting their findings to a January 2023 Planning Policy Briefing meeting. The initial findings of this work are set out in the Briefing Paper, which forms Appendix A of this report. However, given the close relationship between the Local Plan review and the HMO Article 4 Direction work, it was considered that it may be beneficial to hold the report back until a new timetable for the Local Plan has been agreed so that more certainty could be given about the key milestones for the HMO Article 4 Direction work moving forward.
- 2.3 With regards to the review of the Local Plan, Members will recall that in September 2022 work on the Review of the Runnymede 2030 Local Plan was temporarily paused, following the Planning Committee meeting of 7<sup>th</sup> September 2022, largely as a result of the political uncertainty following the change in prime minister and the different approaches to planning policy being advocated by the proposed successors. On 22<sup>nd</sup> December 2022 the Government published the National Planning Policy Prospectus, which set out transitional arrangements for Local Plans that were in the process of being produced. The consultation on the NPPF prospectus ended on 2<sup>nd</sup> March and the Government has committed to making reforms to the NPPF this Spring. A new timetable for the Local Plan Review is expected to be taken before the Planning Committee in Spring 2023 after the final reforms have been published by the Government.
- 2.4 If the Council were to introduce Article 4 Directions for HMO, this would necessitate changes being made to the Policy SL23, as referred to above in para. 1.7, in order to have stronger controls in place against which planning applications for conversions of dwellings to HMO could be assessed. This issue is discussed in the accompanying Briefing Paper, with an example of the type of criteria that could be included in the policy set out within para. 4.44 of the paper.
- 2.5 The initial work carried out by officers has been undertaken at a high level and has focussed on the distribution of HMOs across the borough and the impacts that these are having in terms of amenity issues. The work shows that there are undoubtedly significant concentrations of HMOs in the north of the Borough in Egham Town and Englefield Green, in close proximity to RHUL. However, beyond this, in terms of quantifying impacts of these concentrations, the results of the analysis are less clear.

## **3. Policy framework implications**

- 3.1 The Article 4 Direction for HMOs, and the justification report for them, if pursued, would provide part of the evidence base underpinning the next iteration of the Local Plan. This evidence would help to justify introducing stronger criteria into Policy SL23, or the equivalent policy in the new Local Plan, to help more robustly assess any planning applications for conversions of dwellinghouses to HMO. Planning law dictates that planning applications should be determined in accordance with the policies within the Development Plan unless material considerations indicate otherwise.

## **4. Financial and resource implications**

- 4.1 Work on the evidence needed to justify the introduction of Article 4 Directions is being undertaken in-house, led by the Planning Policy Team. There are no additional resource implications beyond that provided for within the agreed Planning Policy budget.

## 5. Legal implications

- 5.1 No specific implications have been identified at the time of writing this report. However, if the Council were to go ahead and introduce Article 4 Directions, there could be legal implications if the directions were to be challenged.

## 6. Equality implications

- 6.1 The Council has a Public Sector Duty under the Equalities Act 2010 (as amended) to have due regard to the need to:

- a) Eliminate unlawful discrimination, harassment or victimisation;
- b) Advance equality of opportunity between persons who share a Protected Characteristic and persons who do not share it;
- c) Foster good relations between those who share a relevant characteristic and persons who do not share those characteristics;

in relation to the 9 'Protected Characteristics' stated within the Act.

- 6.2 If a decision is taken to progress with Article 4 Direction(s) for HMO, the justification report once prepared will be screened to establish whether there may be an impact, either positive or negative on any of the nine protected characteristics (namely, age, disability, race/ethnicity, pregnancy and maternity, religion, sexual orientation, sex, gender reassignment and marriage/civil partnership). This will be reported in later Committee reports.

## 7. Environmental/Sustainability/Biodiversity Implications

- 7.1 None identified at this stage.

## 8. Other Implications

- 8.1 None identified at this stage.

## 9. Conclusion

- 9.1 Planning Committee is asked:

- i) **TO NOTE:** The findings of the work that has been undertaken to investigate the number and potential impacts associated with HMOs in Runnymede.
- ii) **TO AGREE:** that the Planning Policy Team should continue to gather evidence on the distribution and impacts of HMOs in Runnymede in tandem with the Local Plan Review, to underpin a future report which will be brought before the Planning Committee to decide whether it is appropriate to introduce an Article 4 Direction(s) in the Borough.

(To resolve)

## Background papers

Appendix A – Briefing paper on evidence currently available to introduce an Article 4 Direction within parts of Runnymede