

BRIEFING NOTE

HOUSES IN MULTIPLE OCCUPATION AND HOSTELS

27/10/15

Background

Under current planning legislation the change of use of dwelling house to a house of multiple occupation (HMO) does not always require planning permission. This is because the General Permitted Development Order gives permitted development rights for changes between the C3 use class (dwelling houses) and the C4 use class (HMO with 3-6 occupants). A change of use to a larger HMO, which is considered to be Sui Generis, does require planning permission. Equally changes of use to hostels (Sui Generis), guest houses (C1) and care homes (C2) also require planning permission.

Existing Planning Policy

The Birmingham Unitary Development Plan includes several policies relating to this topic area. Policies 8.23-8.24 provide criteria for determining planning applications for Houses in Multiple Occupation; Policies 8.26–8.27 set out guidance on the assessment of planning proposals for flat conversions and policies 8.28-8.29 provide criteria for the assessment of proposals for hostels and residential homes. These policies are considered to be broadly in line with the National Planning Policy Framework. In each of these sets of policies there is a criteria for assessment which requires consideration to be given to cumulative effect of the proposed change of use on the residential character and appearance of the area, where a number of other non-dwelling house uses exist. It should be noted however that these policies do not set a threshold on the proportion of these uses and as such it is a matter of judgement as to whether or not the cumulative impact of an individual application is significantly detrimental to warrant refusal.

There are also a number of Areas of Restraint in the City, where historically it was identified that there was an undue concentration of residential uses that do not fall within the C3 use class. These require the Council to consider the exercise of control in determining any planning application that may further impact on the character of these areas. However, these documents were produced in the early 1990's and as such are based on out of date survey data. Therefore only very limited weight can be given to them when determining planning applications within the areas that they cover.

The emerging Development Management DPD

Planning & Regeneration are in the process of preparing a Development Management DPD which, when adopted, will replace the UDP policies and the Areas of Restraint referred to above. The precise wording of the policies has not been yet been agreed, but it proposed that the new policies for HMO's and hostels will include a threshold for such uses within a particular geographical area (for example 10% within a 100 metres radius). The precise threshold and area on which it is applied are yet to be determined, but will need to be justified. For such a policy to be effective the City Council will also need to maintain a record of existing HMO's and hostels which itself causes issues as while we hold data on licensed HMO's (only HMO's over 3 storey's and with more than 5 residents), HMO's approved through planning (the larger Sui Generis HMO's) and properties

claiming student council tax exemption; this is not a full data set of all HMO's in the City. Work is being undertaken to consolidate and map the data that we do hold and there are emerging proposals from Government to extend the licensing scheme which may help to provide a more complete picture.

Article 4 Directions

As noted above one of the challenges with utilising the Planning Management Service to control the proliferation of HMO's is that smaller HMO's benefit from permitted development rights. This creates issues both in terms of monitoring the number of HMO's in an area and with regards to further properties being converted to HMO's. One solution to this is to remove the permitted development rights through the use of an article 4 direction, which has been done for parts of Selly Oak. However this has to be justified and a robust evidence base is needed to demonstrate that the permitted development rights should be removed. In the case of Selly Oak the data that we do hold was consolidated as part of the process of preparing the article 4. As identified above work is currently being undertaken to produce the same dataset for the rest of the City and the proposed extension to extend the licensing scheme may further help with this. This will have the dual benefits of firstly indicating where there are overconcentration's of HMO's and then providing the evidence base to support the introduction of article 4 directions if they are considered necessary.

It should be noted that an article 4 direction does not mean that all applications for HMO's in an area will be refused. It simply means that planning permission must be sought which means that the merits of each proposal can be considered.

Given the above it is proposed that when the evidence base to support the Development Management DPD has been produced and/or Government extend the HMO licensing scheme that the data is reviewed to ascertain whether or not Article 4 directions are needed in areas where there are high concentrations of HMO's. This will also allow the effectiveness of the operation of the Selly Oak article 4 to be considered.

Finally, it should be noted that preparing and making an article 4 direction is a lengthy process which requires a significant amount of resources. As always the impact that this would have on delivering other priorities will need to be taken into consideration when deciding whether or not to prepare proposed article 4 directions.

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