

REPORT TO EXECUTIVE

Date of Meeting: 30 November 2021

REPORT TO COUNCIL

Date of Meeting: 14 December 2021

Report of: Deputy Chief Executive

Title: The Exeter Article 4 Direction: Houses in multiple occupancy. Response to a recent petition

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

1.1. At the Council meeting on 21 July 2021, the Lord Mayor confirmed receipt of a petition with 48 signatures requesting the extension of the Article 4 restrictions on Houses in Multiple Occupation (HMOs) to include the rest of Sylvan Road, Sylvan Avenue and Moorview Close. Following Council on 21 July 2021, additional signatures were received, making the total number of signatures as 98. This has been referred to the Executive for further consideration.

2. Recommendations:

That the Executive recommend to Council to:

2.1 Note the content of the petition and appreciate the concerns raised regarding the potential impacts of Houses in Multiple Occupation on the local community;

2.2 Maintain the prioritisation of work to prepare the new Local Plan above a revision to the Article 4 Direction; and

2.3 Approve revisiting the Article 4 Direction following the adoption of the new Local Plan.

3. Reasons for the recommendation:

3.1 The issues raised within the petition and the associated concerns of the local community are understood. However, a review of the Article 4 area has to go through a statutory process as it effectively alters the way in which planning legislation regarding permitted development is applied. This would require significant work which would mean any changes would take some time to come into force.

3.2 The housing market and higher education sector are currently going through a volatile period brought about by Brexit and the ongoing Covid-19 pandemic. As such, this is not

an appropriate time to undertake a review of the Article 4 Direction and associated designated area.

3.3 Current national planning policy is clear on the need to limit the scope and geography of Article 4 Directions and an extension would not fit comfortably with that policy position.

3.4 A review of evidence relating to the number of HMOs in Pennsylvania suggests that there is currently insufficient evidence at this point to require a review of the A4 provisions in this area.

3.5 Finally, there is a need to focus limited resources carefully on the corporate priorities of the Council. In terms of planning policy, this means the work on the new Local Plan as opposed to a review of the Article 4 Direction.

4. What are the resource implications including non financial resources?

4.1 The report recommends that, at this stage, no further action is taken to extend the boundaries of the current Article 4 area. On this basis, specific further work is not proposed and therefore the recommendations made in this report do not result in any direct additional resource implications.

5. Section 151 Officer comments:

5.1. There are no financial implications contained in this report.

6. What are the legal aspects?

6.1 The Council has already made an Article 4 direction for a designated area around the main campus of the University of Exeter through the General Permitted Development Order. This restricts Class C4 Permitted Development rights in this area meaning that a change of use from 'regular' C3 class residential development to create houses in multiple occupation now requires planning permission. In establishing this position, the necessary processes in accordance with Article 4 of the General Permitted Development Order were undertaken.

6.2 The Council is not currently proposing to undertake a review of the Article 4 direction or the area to which it relates, and there are no specific legal requirements to require the Council to do so. The Council's priority focus in terms of planning policy work remains the preparation of the new Local Plan. This is a statutory duty.

7. Monitoring Officer's comments:

This report raises no issues for the Monitoring Officer.

8. Report details:

Background

8.1 The Council values the vital role that the University of Exeter plays in the life of the city. The University brings world-class education to our young people, provides economic benefits through job creation and investment, brings prestige and adds to the vitality of our city. However, the success of the University can lead to issues associated with the

growing student population. In some cases, this can cause tensions between students and other local residents, including regarding the impact of houses in multiple occupation.

8.2 On 21 July 2021, the Lord Mayor confirmed receipt of a petition with 48 signatures requesting the extension of the Article 4 restrictions on Houses in Multiple Occupation (HMOs) to include the rest of Sylvan Road, Sylvan Avenue and Moorview Close. This report addresses the requests within the petition.

8.3 The City Council has an Article 4 Direction in place for areas in the St James, St David's, Newtown, Polsloe and Pennsylvania areas. This restricts owners' permitted development rights to use their properties as houses in multiple occupation. It was most recently updated in 2014. This system aims to check the continued growth of student houses in areas where this leads to imbalanced communities and local impacts. Currently, the northern part of Sylvan Road, the vast majority of Sylvan Avenue and Moorview Close are outside the Article 4 area.

The current position regarding student accommodation

8.4 The Council closely monitors the numbers of students studying at the University of Exeter and has a close dialogue with University staff. In the last twenty years, the monitoring has demonstrated the large increases in numbers of students studying at the University.

8.5 Since 2006/07, the number of students studying at the University has increased from 11,170 to 23,661 in 2020/21. Taking account of part time students and those living at home (both groups who are considered less likely to require student accommodation), the numbers likely to require specific accommodation has risen from 10,267 in 2006/07 to 21,760 in 2020/21. This equates to an increase of 11,493.

8.6 Looking forward, the University has plans to increase the numbers of students studying in the city from 23,661 in 2020/21 to 24,679 in 2025/26. Again, taking account of part time students and those living at home, the number of students requiring accommodation is likely to increase from 21,760 in 2020/21 to 22,696 in 2025/26, an increase of 936 students.

8.7 The Council has recognised the need to consider the impacts of this growth. The Council's approach to managing the potential impact of student growth has been to work closely with the University and to implement two planning policy responses:

- To make an Article 4 Direction that restricts home owners' permitted development rights to use their properties as houses in multiple occupation (HMOs) within Class C4 of the Use Classes Order. This means planning consent is required to change the use of a regular house to a house in multiple occupation.
- To include a strategy in the adopted Core Strategy which aims to accommodate 75% or more of additional student numbers in purpose built student housing. This housing is planned to be located on, or close to, the University campuses, at sustainable locations at or near to major transport routes, or in the city centre. Greater detail relating to this approach is included in the Exeter HMO (Use Class C4) Supplementary Planning Document.

8.8 These two joined-up approaches aim to take a proactive approach to providing appropriate levels of student accommodation in the city while ensuring that the numbers of houses in multiple occupation do not create imbalanced neighbourhoods.

8.9 These two approaches have been relatively successful in accommodating the additional student growth in the city. Since 2006/07, there has been a cumulative increase of 11,493 University of Exeter students in need of accommodation. This compares to an increase of just over 8,100 PBSA bed spaces over the same period. These figures indicate that, since 2006/07, 71% of additional students in need of accommodation have been housed in PBSA – just short of the Core Strategy target of 75. This success is also supported by the decreases in numbers of Council Tax exemption N properties in the general housing stock which represent HMOs.

Houses in multiple occupation and associated issues in Pennsylvania

8.10 In spite of the success that the Council and University policies have had in accommodating additional student numbers, it is acknowledged that in some areas and on some occasions, there can be issues associated with the numbers of houses in multiple occupation.

8.11 As a result of different lifestyles and routines of students and other residents there can be reports of noise and other anti-social behaviour. These issues are taken seriously by both the Council and the University and both organisations work together to manage concerns.

8.12 A key concern behind the petition is that, outside of the Article 4 area, numbers of HMOs are increasing. Some have gone further and would argue that the numbers of HMOs outside the Article 4 area are increasing because the Article 4 direction is causing the demand for HMOs to jump outside of the designated area.

8.13 Specifically in relation to the petition, these concerns have led to calls for the Article 4 area to be extended to include all of Sylvan Road, Sylvan Avenue and Moorview Close.

8.14 Following receipt of the petition, some further analysis of the situation in the three streets mentioned in the petition has been undertaken. This has focused on Council Tax records. For Council Tax purposes, exemption 'N' properties are those entirely occupied by full time equivalent students. The location of these properties are therefore an indicator of the distribution of the student population.

8.15 Table 1 identifies the total number of properties, and the number of HMOs, in each of Sylvan Road, Sylvan Close and Moorview Close using Council tax data from 2021. It is worth noting that previously, between 10% and 20% HMOs has led to the inclusion of a street in the Article 4 area.

Street name	Number properties in A4 area	Number HMOs in A4 area	% HMOs in A4 area	Total properties outside A4 area	Number HMOs outside A4 area	% HMOs outside A4 area
Sylvan Road	55	20	36.36	33	0	0.00
Sylvan Avenue	1	0	0	21	1	4.76
Moorview Close	0	0	0	9	0	0

Table 1: Numbers of houses in multiple occupation in Sylvan Road, Sylvan Avenue and Moorview Close, 2021

8.16 Having considered this data, it is clear that the number of HMOs in the three streets, or parts of the streets, outside of the Article 4 area are significantly under the 10-20% threshold which has previously been considered as a reasonable justification for reviewing the area. This suggests that there is insufficient evidence to consider extending the Article 4 area.

8.17 Some analysis has also been done to consider the changes in numbers of HMOs in each of Sylvan Road, Sylvan Close and Moorview Close since 2015, as shown in Table 2.

Street	Number of Class N properties	
	April 2015	February 2021
Sylvan Road	16	20
Sylvan Avenue	0	1
Moorview Close	0	0

Table 2 : Changes in the numbers of HMOs in Sylvan Road, Sylvan Avenue and Moorview Close between 2015 and 2021

8.18 This data demonstrates that there has been limited change in the number of Class N properties in the three roads in the last six years. On this basis, it is reasonable to conclude that the numbers of HMOs is relatively stable and therefore there is insufficient evidence to justify a review of the Article 4 area at this stage.

8.19 Looking at more strategic level, it is also important to recognise that a review of the Article 4 area in terms of evidence would need to consider the number of HMOs in the wider Article 4 area. This could lead to unintended consequences, included the potential for evidence to suggest the drawing-in of the boundary if parts of the Article 4 area were now to see reduced numbers of HMOs.

The current impacts of Covid-19

8.20 Some residents have suggested that Covid-19 has resulted in an increase in the demand for student housing and HMOs. Currently, the Council has not had sight of robust evidence which identifies that this is the case. Indeed, anecdotally, the demand could potentially have reduced due to the significant move to online lectures and the ease with which students can study remotely. This may have led to reduced short-term demand for students to live full time in the city.

8.21 More widely, we are aware of commentary which suggests that smaller cities such as Exeter are seeing greater interest in terms of general house moves from the larger metropolitan areas.

8.22 These two arguments demonstrate the complexities of analysing current conditions and the causes of potential trends. Given the breadth of housing market issues caused by Covid-19 and the potential for patterns to be short term in nature, care needs to be taken in considering when and how to respond. The Council needs to ensure that it plans for longer-term patterns, as opposed to more short term changes. On this basis, it is currently not considered to be the appropriate time to undertake a revision of the Article 4 Direction.

Article 4 Directions and the relationship with the new Local Plan

8.23 An Article 4 Direction is made under planning legislation (Article 4 of the General Permitted Development Order) which enables the local planning authority to withdraw specified permitted development rights across a defined area. In this case, the change of use is from regular residential development (Class C3) to houses in multiple occupation (Class C4).

8.24 Changes to the Exeter Article 4 Direction would have to be undertaken in accordance with the formal requirements of the legislation. These include:

- Compiling evidence regarding the need to revise the Article 4 Direction;
- Legal drafting of the Article 4 Direction itself;
- Completing a period of consultation on the proposed changes;
- Analysing responses;
- Reviewing the Article 4 Direction;
- Securing Council approvals; and
- Providing notice of the work to the Secretary of State.

8.25 It is anticipated that the process would take approximately 8 months.

8.26 The legislative requirements of reviewing the Article 4 Direction have been considered alongside those of preparing the new Local Plan. This exercise has considered whether the ongoing Local Plan work could encompass the review of the Article 4 Direction. It is however clear that the legislative requirements of the two areas of work are distinct; the Local Plan is progressed in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012. A review of the Article 4 Direction would need to be undertaken in accordance with the Town and Country Planning (General Permitted Development) (England) Order 2015.

8.27 This means that separate processes would be required. Although undertaking work on a review of the Article 4 Direction area would not be insurmountable in itself, it would add to the significant workload of the newly formed Local Plans team. The workload of the team includes the corporate priority of the new Local Plan which is being prepared to an ambitious timetable to enable adoption in 2024. There is no spare officer capacity to undertake additional work without causing a delay to the Local Plan.

8.28 The new Local Plan will have wide-ranging and citywide benefits. As a result, it is considered that continued focus should be given to the Local Plan as opposed to a review of the Article 4 Direction and its designated area. Such work, although potentially beneficial and understandably favoured by some residents including those signing the petition, would have a much narrower focus and therefore would have more limited benefits in terms of the area and population affected.

8.29 Although it is not currently proposed to review the Article 4 Direction, it is suggested that the Council keeps this under review and undertakes ongoing monitoring to ensure that a robust evidence base is compiled. This will enable the issue to be revisited following the adoption of the Local Plan. In the meantime, it will be vital to ensure that emerging planning policies to be incorporated into the new Local Plan clearly address the potential impact of houses in multiple occupation.

National planning policy

8.30 The consideration of the relatively narrow geographic scope and focus of an Article 4 Direction review is relevant in the context of national planning policy. A revised version of the National Planning Policy Framework was published in July 2021. Paragraph 53 specifically considers the application of Article 4 Directions. It states:

'The use of Article 4 directions to remove national permitted development rights should:

- Where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre);*
- In other cases, be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities); and*
- In all cases, be based on robust evidence, and apply to the smallest geographical area possible.*

8.31 The NPPF clearly states that Article 4 Directions can be used to protect local amenity which is the rationale for the existing policy position in Exeter. However, the reference to robust evidence and applying the Direction to the smallest geographic area possible is pertinent; when Exeter's existing Article 4 area already covers a significant area around the main University campus, it is difficult to justify the need to extend it without the necessary clear evidence.

The wider activities of the Council

8.32 It should be noted that planning is just one of the various responsibilities of the Council. There are other activities which the Council undertakes in order to manage issues associated with houses in multiple occupation.

8.33 There is regular and ongoing liaison between the Council and the University to highlight the need for the student population to respect the local area and other residents. During specific periods when there can be issues relating to anti-social behaviour, the

environmental health team works with colleagues from the University and the police to respond to complaints. This work also extends to speaking with local residents and students in order to manage particular incidents.

8.34 This work will continue and will be monitored to consider any changes to local circumstances.

Summary

8.35 Following receipt of the petition, the Council has reviewed the request to extend the Article 4 area into the rest of Sylvan Road, Sylvan Avenue and Moorview Close. In undertaking this work, the Council recognises the concerns of the local community regarding the potential impacts of houses in multiple occupation.

8.36 However, having reviewed the position it is not recommended to revise the Article Direction at this time because:

- Evidence suggests that the numbers of HMOs in Sylvan Road, Sylvan Avenue and Moorview Close do not justify a review of the Article 4 area boundary at this time;
- The current conditions in the housing market and in the delivery of higher education, both of which would affect the potential for impact of HMOs, are currently subject to ongoing volatility and therefore basing policy changes on current conditions would be inappropriate;
- Focusing officer resources on a review of the Article 4 Direction would divert the focus away from the preparation of the Local Plan – a key corporate priority with city-wide impact; and
- National planning policy is clear about the limited application and geographic scope of Article 4 Directions.

9. How does the decision contribute to the Council's Corporate Plan?

9.1 The decision not to undertake a review of the Article 4 direction at this stage enables focus to be maintained on the preparation of the new Local Plan. This is a statutory duty and will be critical to ensure the delivery of three corporate objectives set out in the Council's Corporate Plan:

- Delivering Net Zero Exeter 2030;
- Promoting active and healthy lifestyles; and
- Building great neighbourhoods.

The Local Plan will also play a central role in tackling congestion and accessibility, the focus of one of the three strategic programmes that addresses the current major challenges facing the city.

9.2 Focusing on the Local Plan reflects the Council needing to prioritise resources efficiently in order to provide value-for-money services - a key part of the corporate plan.

10. What risks are there and how can they be reduced?

10.1 There are no statutory requirements to review the Article 4 Direction. On this basis, there are minimal legislative risks for the Council.

10.2 There would be a greater risk in reviewing the Article 4 Direction now due to the volatility of the housing market and potential uncertainties about the way in which higher education is delivered going forward. The potential that prevailing conditions are short term could mean that if a review were undertaken now, further work could be required in the not too distant future to reflect housing markets and education delivery patterns which are longer term.

10.3 Furthermore, work to review the Article 4 Direction would lead to a delay in the timetable of the Local Plan which would have various risks for the city. This would include the loss of local planning controls.

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- Eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- Advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- Foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty, authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In making the recommendations in this report, no potential negative impact has been identified on people with protected characteristics as determined because no specific action is being proposed. This position may have a more significant impact on the areas just outside the current designated area of the Article 4 direction, but this would not have any specific impacts on those groups with protected characteristics.

12. Carbon Footprint (Environmental) Implications:

12.1 There are no direct carbon/environmental impacts arising from the recommendations because no specific action is being proposed. If a review of the Article 4 Direction was implemented now it would provide limitations to HMOs in larger areas around the University which could potentially result in students seeking accommodation further away from the main campuses. This could increase car use which would have a negative impact in terms of carbon emissions.

13. Are there any other options?

13.1 The Council does have the option of an immediate review of the Article 4 Direction. Currently this is not considered to be an appropriate course of action because of the reasons detailed in the report.

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Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

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