

Strategic Planning Board

Date of Meeting: 24 March 2021

Report Title: Confirmation of three non-immediate Article 4 Directions in areas of Crewe

Portfolio Holder: Councillor Toni Fox, Portfolio Holder for Planning

Senior Officer: Frank Jordan, Executive Director of Place

1. Report Summary

- 1.1. On the 3 December 2019, Cabinet authorised the making of three non-immediate Article 4 Directions to remove permitted development rights for the change of use of dwellings (Use Class C3) to small houses in multiple occupation (“HMO”) (Use Class C4) in the Nantwich Road, Hungerford Road and West Street areas of Crewe. The three Directions were subsequently made on the 6th October 2020 and representations were invited to be made about them between the 19 October 2020 and 11 January 2021.
- 1.2. Taking into account of the feedback received, this report seeks the Strategic Planning Board’s views on the confirmation of the three Directions. A Consultation Statement has been prepared to provide information about the representations period, feedback received and the Council’s response and this is attached at Appendix 1.
- 1.3. The next step is for the Portfolio Holder for Planning to confirm each Direction to enable them to come into effect on the 1 November 2021.

2. Recommendations

2.1 That the Strategic Planning Board:-

- 2.1.1 Considers the representations received to the Article 4 Directions set out in the Consultation Statement (Appendix 1) including the Council’s response;

2.1.3 Recommends that the Portfolio Holder for Planning confirms the three non-immediate Article 4 Directions, to come into effect on the 1 November 2021, covering the Nantwich Road, Hungerford Road and West Street areas of Crewe.

3. Reasons for Recommendations

3.1. If the Article 4 Directions are confirmed and come into effect on the 1 November 2021, they will affect three areas of Crewe where there are concentrations of HMOs. The Directions would bring all new proposals to convert dwellings to HMOs under planning control in these areas and would implement the Cabinet's decision in December 2019 following the consideration of the feedback received through public consultation.

4. Other Options Considered

4.1. A number of options were previously considered in the December 2019 Cabinet report. These have not been repeated, as the matter to be decided and the subject of this decision is whether or not the Directions should be confirmed and brought into effect in the light of consultation feedback. It is not considered that any issues raised within the public consultation exercise would warrant the Directions not being confirmed and brought into effect as proposed.

4.2. The Council could choose not to confirm one or more of the Article 4 Directions. If this were to occur, the change of use of individual dwellings to small HMOs would remain as permitted development, however large-scale HMOs would continue to require planning permission.

4.3. The Council could choose to amend one or more of the Article 4 Direction areas – for example to change the boundary of the areas covered. Were this to happen, it will be necessary to make new directions along with the associated publicity and representations period. This would result in a significant delay to their implementation and increase the costs of the exercise.

4.4. The Council could pursue other measures to address any impacts arising from HMOs and/ or the wider Private Rented Sector. This could include measures relating to environmental management, enforcement and the introduction of selective licencing to improve the standards of accommodation. However, these measures alone would not have the effect of controlling the creation of new HMOs in these areas as the Article 4 Directions would have.

- 4.5. The Council could publish supplementary planning guidance regarding HMOs but not make any Article 4 Direction(s). However, this would only influence the outcome of planning applications for large HMOs. It would not have any bearing on the development of new small HMOs created through permitted development.

5. Background

- 5.1. HMOs are defined as single dwellings occupied by a number of separate households/ unrelated individuals. Under the Town & Country Planning (Use Classes) Order 1987 (as amended) a small HMO (Class C4) accommodates between 3 and 6 unrelated individuals and a large HMO (Sui Generis – outside of any use class) accommodates 7 or more unrelated individuals.
- 5.2. The Town and Country Planning (General Permitted Development) Order 2015 (“GPDO”) provides permitted development rights for the change of use of a dwelling (Class C3) to a small HMO (Class C4) without the need to apply to the Council for planning permission. The change of use of a dwelling to a larger HMO (Sui Generis) always requires the submission of a planning application.
- 5.3. Article 4 of the GPDO enables local planning authorities to withdraw specified permitted development rights in a defined area. Once an Article 4 Direction comes into force, a planning application is then required for the specific permitted development right withdrawn. The withdrawal of permitted development rights does not imply that planning applications will be automatically refused if they are submitted. The submission of a planning application simply gives the local planning authority opportunity to consider a proposal against relevant planning policies, supplementary planning documents (where available) and any other material planning considerations.
- 5.4. At its meeting on the 3 December 2019, the Cabinet considered a report which sought authorisation to make 3 non-immediate Article 4 Directions to remove permitted development rights for the change of use of dwellings to small HMOs (accommodating 3-6 unrelated individuals) in parts of Crewe. The Cabinet authorised the removal of permitted development rights based on evidence of high concentrations of HMOs in those particular areas together with a coincidence of local amenity issues.
- 5.5. The three non-immediate Article 4 Directions in parts of Crewe were subsequently made on the 6th October 2020 and public consultation about them took place between 19th October and 11th January 2021. The feedback

received has been considered and this is summarised in the Consultation Statement (Appendix 1).

- 5.6. If the Article 4 Directions are confirmed following consideration of the feedback received, they will come into effect on the 1 November 2021.

Representations received

- 5.7. The procedural requirements for the making of non-immediate Article 4 Directions are set out in the Town and Country Planning (General Permitted Development) Order 2015 as amended (“GPDO”). As soon as practicable after a Direction has been made, notice must be given of this by the local authority. Giving notice means:

- Giving notice by local advertisement;
- Placing a minimum of 2 sites notices in each Direction area
- In addition, a copy of the Directions and the notice to the Secretary of State.

- 5.8. The notice must contain information about where the Directions can be viewed including maps of the areas affected during reasonable hours, the timescale for making representations (a minimum 21 days) and the date that the Directions will come into effect (if confirmed).

- 5.9. Notice of the making of the three Directions was initially given by erecting around 200 site notices across all three Direction areas on the 19 October 2020 and by advertisement in the Crewe Chronicle on the 21 October 2020. Copies of the documents were placed online and at Crewe Library. Representations were initially invited between the 19 October 2020 – 30 November 2020 (a period of six weeks).

- 5.10. In addition to the above, letters/ emails were sent to a number of local organisations in Crewe, estate agents/ letting agents, licenced landlords and national landlords associations. The Article 4 Directions were also referred to in the letters/emails sent in relation to other planning policy consultations taking place at a similar time, namely the Revised Publication Draft Site Allocations and Development Policies Document (“SADPD”) and the Draft Houses in Multiple Occupation Supplementary Planning Document (“HMO SPD”).

- 5.11. Crewe Library was closed temporarily between the 5 November 2020 and 2 December 2020 due to lockdown restrictions and from 30 December 2020 onwards. The representations period was subsequently extended until the 11

January 2021 to provide additional time for any comments to be made on the Directions. Posted paper copies were made available on request in the event that any interested party had difficulties accessing documents.

5.12. In total of 49 representations were received. 8 were received by email and 41 via the online survey hosted on the Council's website.

5.13. The majority of respondents, including Crewe Town Council and the Cheshire Police, expressed supported for the introduction of the Article 4 Directions across the three areas.

5.14. The issues raised are summarised below:

- Number of dwellings in HMO use in a street should be limited to no more than 5%
- Poor property standards in HMOs and issues of overcrowding
- Poor management of HMOs by landlords/tenants
- Adverse impact of HMOs upon car parking, waste, fly-tipping, noise, anti-social behaviour, families in the area
- Need for HMO accommodation - directions will impact supply and drive up rent levels
- The directions will not reverse the negative impacts upon the area
- Areas outside the boundaries will be at higher risk to increased levels of HMOs
- Other measures should be used instead of A4D such as waste management
- A sunset clause should be imposed on the directions so that they are reviewed
- The implementation date should be extended to allow landlords to complete works without needing planning permission, particularly given the current Covid-19 pandemic
- Need to provide landlords/ tenants of HMOs with information about waste collection
- Consideration should be given to residents parking scheme
- Adverse impact of HMOs upon property values
- Boundaries of direction areas should be amended to include additional streets/ all CW1 & CW2 postcodes/ Crewe/ Borough-wide
- Covid-19 pandemic has highlighted issues with overcrowding and HMOs
- The Equalities Impact Assessment is flawed. The decision has significant potential to adversely impact persons with protected characteristics by virtue of bias against sexual orientation or gender

- Lack of facilities within Crewe for more HMOs
- Directions are too late as a number of dwellings are already in use as HMOs
- Directions do not take into account change of use to larger HMOs or flats
- Impact of the measures upon the ability of homeowners to extend their dwellings in the future
- Fear of walking in the area/ public safety concerns.

5.15. The Council's response to all issues raised can be found in the Consultation Statement (Appendix 1). Many of the issues raised relate to general concerns about the local environment of the areas included within the Directions such as fly-tipping, waste management, property management and standards, noise, parking issues, anti-social behaviour etc.

5.16. Whilst there is no single intervention that can address these issues, a Article 4 Direction can play its part in in managing the creation of new HMOs in these areas and improving standards. The submission of a planning application enables the Council to assess proposed new HMOs against relevant planning policies and where appropriate, attach conditions if approved to require adequate provision of waste storage for example. It is intended that the Article 4 Directions will contribute to improving standards for future tenants, residents and home-owners within the Direction areas.

5.17. Some of the main concerns highlighted in representations are considered below.

Boundaries

5.18. Some representations have suggested that the boundaries of the Direction areas should be changed. However, National Planning Practice Guidance does not encourage the use of blanket directions covering large areas (for example the whole of a town) unless there is convincing evidence to justify such a direction. A recent consultation by the Ministry of Housing, Communities and Local Government on proposed changes to the National Planning Policy Framework also suggests that the use of Article 4 Directions to remove national permitted development rights should apply to the smallest geographical area possible.

5.19. The Cabinet Report and Evidence Paper (December 2019) explains how the boundaries were chosen for each direction area based on evidence.

5.20. Additionally, any changes to the boundaries would necessitate the making of new directions and a new public consultation exercise . This would serve to

significantly delay implementation of the Directions. It is therefore recommended that the Directions are confirmed as made. However, the effectiveness of the Directions and their boundaries will be subject to periodical monitoring/ review.

Impact upon the supply of HMO accommodation in the direction areas

- 5.21. The Cabinet Report and Evidence Paper (December 2019) recognise that HMOs and the wider private rented sector play a key role in meeting housing needs in the borough. HMOs provide an important source of low cost, private sector housing for those on lower incomes, students and those seeking temporary accommodation.
- 5.22. However, a concentration of HMOs in a particular area can change its character, increase demand on services and infrastructure, leading to conflicts with the existing community.
- 5.23. There is clear evidence of concentrations of HMOs within each of the Direction areas and a coincidence of other environmental, social and economic issues. The use of the Directions is justified based on the amenity and well-being of these areas.
- 5.24. Although Article 4 Directions of this nature may have some effect on the supply of HMOs and possibly rental values, this is likely to be localised in its extent given that the Directions cover three defined and limited areas.
- 5.25. It is important to bear in mind that the introduction of an HMO Article 4 Direction does not apply any sort of moratorium preventing HMOs being created. It requires a planning application to be made to convert homes into small HMOs. It does not change the situation with regard to the creation of larger HMOs, which could not be created through permitted development rights even in the absence of an Article 4 Direction.

Timescale for implementation/ Covid-19

- 5.26. Whilst concerns have been raised over the proposed implementation date (1 November 2021) to enable landlords to complete any conversion works, particularly during the pandemic, a period in excess of 12 months notice has been given of their proposed introduction. This is considered to be sufficient notice to allow for any landlord or property owner to complete any internal works which in many cases will be limited in extent.

Impact of the directions upon persons with protected characteristics

- 5.27. An updated Equalities Impact Assessment has been prepared and further details about that can be found in section 6.4 below.

6. Implications of the Recommendations

6.1 Legal Implications

6.1.1 Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 allows a local planning authority to make an Article 4 Direction to remove permitted development rights. The procedure for making an Article 4 Direction and the consultation requirements are set out in that Order.

Human Rights

6.1.2 The Council has carefully considered the balance to be struck between individual rights and the wider public interest. The rights of all of the owners of land in Nantwich Road area, West Street and Hungerford Road areas of Crewe under the Human Rights Act 1998 have been considered, in particular those contained within Article 1 of the Convention which relates to the Protection of Property and Article 8 of the Convention, which protects private and family life, home and correspondence. Both have been taken into account by the Council in the consideration of consulting upon the making of these non-immediate Article 4 Directions.

6.1.3 The Article 4 Directions will not interfere with implemented development rights enjoyed by the owners and residents as the Directions do not have retrospective effect. It will only affect future planning applications made in respect of a change of use from a dwellinghouse (use class C3) to a House in Multiple Occupation for not more than 6 people (use class C4) by ensuring that an express application for planning permission is made.

6.1.4 The aim of the Article 4 Direction is to limit harm to the amenity of existing residents and to also to maintain, as far as possible, a balanced and mixed community. The Council considers that the advantages of making the Article 4 Direction substantially outweigh the disadvantages to those property owners and residents who will no longer be able to benefit from the permitted rights in the future.

6.2 Finance Implications

6.2.1 The costs relating to the making of the directions, including implementation are covered from existing planning budgets.

- 6.2.2 A planning application fee will be payable for those applications for small HMOs in the designated area once the Direction is in force (currently £462 for a change of use) thereby making a contribution to the core costs of the planning service.
- 6.2.3 In addition, the Council Tax team are notified of planning applications and monitor properties with relevant applications for changes that will affect the Council Tax base. The introduction of the Article 4 Directions and the requirement for planning permission, will alert the Council Tax team to possible changes that previously they may not have been aware of.

6.3 Policy Implications

- 6.3.1 Planning applications submitted for HMOs will be assessed against relevant planning policies, supplementary planning documents and any other material planning considerations.
- 6.3.2 In the case of the Crewe & Nantwich area, the adopted development plan comprises of the 'saved' policies of the Borough of Crewe and Nantwich Replacement Local Plan 2011 ("CNLP") and the Cheshire East Local Plan Strategy 2017 ("LPS").
- 6.3.3 CNLP Policy RES.9 'Houses in Multiple Occupation' provides criteria against which HMO proposals will be considered, including the impact upon the amenity of the area. LPS Policy SC4 states that housing proposals should maintain, provide or contribute to a mix of tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities. Planning applications submitted for large HMOs are currently assessed against these policies.
- 6.3.4 The Council recently consulted on its Revised Publication Draft Site Allocations and Development Policies Document ("SADPD") between the 26th October 2020 and 23rd December 2020. Draft SADPD Policy HOU 4 'Houses in Multiple Occupation' contains criteria for assessing planning applications for HMOs. In particular, the draft policy introduces a maximum threshold of no more than 10% of dwellings within 50 metres of an application site in existing HMO use. If adopted, Policy HOU 4 will replace CNLP Policy RES.9.
- 6.3.5 In parallel with taking forward the Directions, the Council has also prepared a Houses in Multiple Occupation Supplementary Planning

Document (“HMO SPD”) to provide detailed planning guidelines against which planning applications will be assessed.

6.3.6 Consultation on the Draft HMO SPD took place between the 26th October 2020 and the 23rd December 2020. The responses received have been considered and the final draft HMO SPD and report of consultation has been prepared. A report recommending that the final draft HMO SPD and report of consultation is published for representations for a period six weeks is progressing in parallel to the confirmation of the Article 4 Directions.

6.4 Equality Implications

6.4.1 The Public Sector Equality Duty was created by the Equality Act 2010 in order to harmonise the previous race, disability and gender equality duties and to extend protection to the protected characteristics of age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation.

6.4.2 In summary, the Council must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

6.4.3 Having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

6.4.4 An initial Equality Impact Assessment (“EIA”) was undertaken prior to the making of the Directions and the representations period. That assessment highlighted that the consultation stage of the Article 4 Direction process could potentially affect protected characteristics in terms of race, age and disability and that consideration should be given

to the method of consultation and the format of any materials. The EIA highlighted that consideration would need to be given to any equality issues raised in feedback.

- 6.4.5 The Equality Impact Assessment has been updated in light of the representations (Appendix 2) including the representation received about the significant potential for the Article 4 Directions to adversely affect persons who share Protected Characteristics by virtue of bias against sexual orientation or gender. This representation states that the creation of HMOs provides accommodation for homeless people and people escaping abuse due to gender, sexual orientation, and other vulnerabilities.
- 6.4.6 Careful thought has been given to concerns expressed in this representation, however it is not considered that the Article 4 Directions would have any significant overall adverse impact on people who share these Protected Characteristics, or any other Protected Characteristic. Although Article 4 Directions of this nature may have some effect on the supply of HMOs, this is likely to be quite limited and localised in its extent. The Directions cover three defined and limited areas. As noted earlier, the introduction of an HMO Article 4 Direction does not apply any sort of moratorium preventing HMOs being created. It requires a planning application to be made to convert homes into small HMOs. It does not change the situation with regard to the creation of larger HMOs, which could not be created through permitted development rights even in the absence of an Article 4 Direction. The Article 4 Directions also have no effect upon the supply of existing HMOs.
- 6.4.7 The key aims of the Article 4 Directions are to manage the concentration and quality of new HMOs in specific locations. It is also important to bear in mind too that bringing all HMOs in the Article 4 Direction areas under planning control provides an opportunity to improve their standards and consider the need to protect the amenity of the neighbourhoods in which they would be situated. It is considered that this could have a positive effect on the people who occupy new HMOs including those people who share Protected Characteristics.
- 6.4.8 In summary, it is not considered that the Directions would have any significant overall adverse impact on people who share protected characteristics.

6.5 Human Resources Implications

- 6.5.1 There are no direct implications for human resources.

6.6 Risk Management Implications

- 6.6.1 The risks associated with the making of the Directions are set out in the Report.
- 6.6.2 As highlighted in the representations received, there is a risk that HMOs could increase elsewhere in the Borough or in areas outside of but adjacent to the Direction areas to avoid the need to apply for planning permission.
- 6.6.3 However, national Planning Practice Guidance does not encourage the use of blanket directions covering large areas (for example the whole of a town) unless there is convincing evidence to justify such a direction. The Cabinet Report and Evidence Paper (December 2019) explains how the boundaries were chosen for each Direction area based on evidence.
- 6.6.4 As already noted, a change to the boundaries would necessitate the making of new Directions and a new public consultation exercise to be carried out. This would serve to delay implementation of the Directions. It is therefore recommended that the Directions are confirmed as made.
- 6.6.5 However, the effectiveness of the Directions and their boundaries will be subject to monitoring/ review.

6.7 Rural Communities Implications

- 6.7.1 It is unlikely that there will be direct implications for rural communities given that the majority of HMOs tend to be located within the borough's towns.

6.8 Implications for Children & Young People/Cared for Children

- 6.8.1 If approved, an Article 4 direction could support the well-being of the areas identified which would benefit Children and Young People.

6.9 Public Health Implications

- 6.9.1 Whilst there are no direct implications for public health the Directions provide an opportunity to improve the standards of this type of accommodation and consider the need to protect the amenity of residents within these neighbourhoods.

6.10 Climate Change Implications

6.10.1 There are no direct implications for climate change.

7. Ward Members Affected

- 7.1.1 Crewe Central – Cllr Anthony Critchley
Crewe South – Cllr Laura Smith & Cllr Steven Hogben
Crewe East – Cllr Joy Bratherton, Cllr Suzanne Brookfield & Cllr Hazel Faddes
Crewe West – Cllr Brian Roberts & Cllr Marilyn Houston

8. Consultation & Engagement

8.1 As noted earlier in the report, representations were invited on the Directions between 19th October 2020 and 11 January 2021. The feedback received is summarised in the Consultation Statement (Appendix 1).

9. Access to Information

9.1 The following documents are appended to this report:

- Appendix 1: Consultation Statement
- Appendix 2: Equalities Impact Assessment

10. Contact Information

10.1 Any questions relating to this report should be directed to the following officers:

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