



Article 4 Direction:

Henshaw Street, SE17, East Walworth

**Equalities Analysis:
Stage 2**

September 2014

Section 1: Equality analysis details

Proposed policy/decision/business plan to which this equality analysis relates	Article 4 Direction to withdraw the Permitted Development Rights for the change of use from a dwellinghouse (use class C3) to a House in Multiple Occupation for not more than 6 people (use class C4) on Henshaw Street, SE17, East Walworth
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Department	Chief Executive	Division	Planning Policy		
Period analysis undertaken	September 2014				
Date of review (if applicable)	N/A				
Sign-off	Tim Cutts	Position	Planning Policy Team Leader	Date	September 2014

Section 2: Brief description of policy/decision/business plan

1.1 Brief description of policy/decision/business plan

This updated equalities analysis supports the report to Planning Committee on 2 September 2014 which requests the confirmation of an Article 4 Direction to remove permitted development rights for a change of use from a dwellinghouse (Use Class C3) to a House in Multiple Occupation (Use Class C4) on Henshaw Street, East Walworth.

The Article 4 Direction responds to changes in Houses in Multiple Occupation (HMO) planning legislation and the desire to exert greater control over this form of accommodation. A HMO is a single family dwelling where facilities such as bathroom or kitchen are shared by three or more unrelated individuals. Current planning legislation allows a family dwelling (Use Class C3) to change to a small House in Multiple Occupation (HMO) of three to six people (Use Class C4) without planning permission.

An Article 4 Direction can be used to remove specific permitted development rights in all or parts of the local authority's area. In order to remove permitted development rights, evidence must suggest that there are exceptional circumstances where the exercise of the permitted development rights would harm local amenity or the proper planning of the area. There needs to be strong justification for the making and confirmation of an Article 4 direction.

The Article 4 Direction covers Henshaw Street because this is a location where there have been on-going complaints about an increasing cluster of HMOs on the street, causing harm to the amenity of residents.

The Article 4 Direction does not restrict development altogether, but instead require planning permission to use a family dwelling house as a small HMO. A planning application for the proposal would therefore need to be submitted. The direction would enable the council to manage the number, location and effects of new HMOs by considering the merits of individual planning applications within the context of the planning policy framework. The Article 4 Direction does not apply to existing HMOs so the current supply of properties would be unaffected.

The proposal was subject to a 6 week consultation period between 17 October and 28 November 2013 and at least 12 months notice before implementation in accordance with the General Permitted Development Order (2010) (as amended) and the national planning practice guidance.

The Core Strategy (2011) which has been subject to an Equalities Analysis does not take a specific position in relation to small HMOs but does make clear the priorities for protecting and increasing the amount of family housing through policy 7.

Section 3: Overview of service users and key stakeholders consulted

2. Service users and stakeholders	
Key users of the department or service	<p>Planning is a statutory function carried out by local authorities. The development of planning policies and the impacts of planning decisions can affect everyone with an interest in land in the borough. This can include residents, landowners, developers, local businesses and their employees, community organisations, statutory consultees and interest groups.</p> <p>The Article 4 Direction was consulted upon for a period of six weeks. A report recommending confirmation of the Direction will be reported back to Planning Committee on 2 September 2014.</p>
Key stakeholders were/are involved in this policy/decision/business plan	<p>The key stakeholders involved in this proposal include: Cabinet Member for Regeneration, Planning and Transport, Southwark Councillors, Overview and Scrutiny Committee, Development Management and Planning Policy officers, Property division, Housing Strategy team, Southwark Health and Well-being Working Group.</p> <p>The Development Management team will be responsible for monitoring the Article 4 Direction and to determine any subsequent planning applications submitted for change of use.</p> <p>The Planning Policy team have received corporate equalities training and Equalities Analysis report writing training. A number of the service deliverers within the Council will also have received corporate equalities training.</p>

Section 4: Pre-implementation equality analysis

This section considers the potential impact (positive and negative) of the proposal on the key 'protected characteristics' in the Equality Act 2010 and Human Rights Act. The Planning Committee report sets out detail on the local data and other equality information on which the analysis is based and mitigating actions to be taken.

The making of the Article 4 Direction itself does not have a direct impact on any groups with protected characteristics. Decisions on planning applications made as a result of the direction may have a potential impact on people with a protected characteristic (age) in that the area and type of housing affected by the direction is typically occupied by young students.

It is considered however that the effect of the direction will promote good relations between people who do not share the protected characteristic (age) and those who do, in that it is likely to result in a more balanced and mixed community.

Age - Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).

Potential impacts (positive and negative) of proposed policy/decision/business plan

The majority of people occupying HMOs tend to be young and single forming households and tend to be transient, only living in the premises for a short time. In more deprived areas, they tend to be low-income households, mainly because they are economically inactive, full-time students or working in low-paid jobs. In the case of London, where property prices and rental are particularly high, HMOs provide an accommodation source for young professionals.

According to a government report by “Evidence Gathering – Housing in Multiple Occupation and possible planning responses” (2010) the concentration of young transient social grouping, such as students, living in relatively insecure accommodation can lead to increased levels of burglary and crime in an area. Anti-social behaviour, noise and nuisance can also be impacts resulting from a concentration of HMOs, and families or elderly residents may develop feelings of vulnerability as a result.

Over the long term, the impact of the implementation of the Article 4 Direction may result in a more dispersed pattern of HMOs in the area with younger people, in particular students, living in a wider range of neighbourhoods than currently experienced. A potential negative impact of a more dispersed set of students or young professionals over a larger area could lead to individuals experiencing feelings of isolation.

The demand from the private rented sector can marginalise the first-time buyer who is unable to compete in the market, which can then lead to a dilution of owner-occupied stock and a domination of houses in multiple occupation.

The implementation of the Article 4 Direction and requirement for planning permission is to encourage and maintain balanced and mixed communities that support the needs of all groups and ages in society. It should also provide greater choice in terms of areas to live and therefore overall we have identified a positive impact.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to a positive impact. We will consider the provision and acceptable distribution of HMOs throughout the entire borough through the drafting of future planning policy and/or guidance and collation of a wider evidence base.

Disability - A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal

day-to-day activities.

Possible impacts (positive and negative) of proposed policy/decision/business plan

No evidence has been found that people with disabilities are more likely to live in HMOs. It is considered that there will be no adverse impact on people with disabilities following the implementation of an Article 4 Direction.

A concentration of HMOs in one area may put additional car parking pressures onto the surrounding streets. This may have a negative impact on people who have a disability and who drive a car. The Article 4 Direction may help to alleviate concerns relating to accessibility issues.

However, the completion of licence application forms and planning applications can be difficult for those with certain impairments. There may also be a differential impact if people with disabilities are unable to or find it difficult to engage with the consultation processes.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise. We know that those people with disabilities can find forms of consultation and communication difficult to understand.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to positive impacts.

We will ensure that any communication or consultation is accessible to people with disabilities. Guidance can also be offered to applicants to complete the planning application process.

Gender reassignment - The process of transitioning from one gender to another.

Possible impacts (positive and negative) of proposed policy/decision/business plan

Members of this characteristic group may access HMO accommodation. However, no impacts are identified on this group as a result of the implementation of the Article 4 Direction.

The implementation of the Article 4 Direction and requirement for planning permission is to encourage and maintain balanced and mixed communities that support the needs of all groups in society. Over the long term it should also help to improve community safety and community cohesion and encourage more mixed housing provision, which has a positive impact.

Equality information on which above analysis is based.

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Directions will largely give rise to positive impacts. No specific impacts have been identified that would affect people differently as a result of their gender reassignment.

Marriage and civil partnership - Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters. **(Only to be considered in respect to the need to eliminate discrimination.**

Possible impacts (positive and negative) of proposed policy/decision/business plan

Married or same sex partners may access HMO accommodation. However, no identifiable impacts are identified on this group as a result of the implementation of the Article 4 Direction.

The implementation of the Article 4 Direction and requirement for planning permission is to encourage and maintain balanced and mixed communities that support the needs of all groups in society. Over the long term it should also help to improve community safety and community cohesion and encourage more mixed housing provision, which has a positive impact.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to positive impacts. No specific impacts have been identified that would affect people differently as a result of their marriage or civil partnership.

Pregnancy and maternity - Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

Possible impacts (positive and negative) of proposed policy/decision/business plan

According to a government report by “Evidence Gathering – Housing in Multiple Occupation and possible planning responses” (2010) the concentration of young transient social grouping, such as students, living in relatively insecure accommodation can lead to increased levels of burglary and crime in an area. Anti-social behaviour, noise and nuisance can also be impacts resulting from a concentration of HMOs, and pregnant women with families may develop feelings of vulnerability as a result.

The implementation of the Article 4 Direction and requirement for planning permission may result in the retention of more family accommodation in the area which will have a positive impact for pregnant women and their families.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to positive impacts.

Race - Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

Possible impacts (positive and negative) of proposed policy/decision/business plan

The East Walworth ward has a high BME population and also there is evidence of single migrant workers living in the area. These groups may be adversely affected by the potential inflated rental prices over the longer term that may arise if the number of HMOs is restricted. There may be a small negative impact upon this characteristic group.

The implementation of the Article 4 Direction and requirement for planning permission is to encourage and maintain balanced and mixed communities that support the needs of all groups in society. Over the long term it should also help to improve community safety and community cohesion and encourage more mixed housing provision, which has a positive impact.

However, the completion of licence application forms and planning applications can be difficult for those people with English as their second language. There may also be a differential impact if people of different nationality are unable to or find it difficult to engage with the consultation processes.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to positive impacts. No specific impacts have been identified that would affect people differently as a result of their race.

We will ensure there is adequate consultation with BME groups regarding the Article 4 Direction. Accessibility to translation services will be available if required.

Religion and belief - Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

Possible impacts (positive and negative) of proposed policy/decision/business plan

No identifiable impacts are identified on this group as a result of the implementation of the Article 4 Direction.

The implementation of the Article 4 Direction and requirement for planning permission is to encourage and maintain balanced and mixed communities that support the needs of all groups in society. Over the long term it should also help to improve community safety and community cohesion and encourage more mixed housing provision, which has a positive impact.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to positive impacts. No specific impacts have been identified that would affect people differently as a result of their religion or belief.

Sex - A man or a woman.

Possible impacts (positive and negative) of proposed policy/decision/business plan

The concentration of a young transient social grouping, such as students, living in relatively insecure accommodation can lead to increased levels of burglary and crime in an area. Added to this, the behaviour of some students, particularly drunken behaviour, is often considered to be anti-social by surrounding residents. Women can be disproportionately affected by community safety issues.

The implementation of the Article 4 Direction and requirement for planning permission is to encourage and maintain balanced and mixed communities that support the needs of all groups in society. Over the long term it should also help to improve community safety and community cohesion and encourage more mixed housing provision, which has a positive impact.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to positive impacts.

Sexual orientation - Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes

Possible impacts (positive and negative) of proposed policy/decision/business plan

No identifiable impacts are identified on this group as a result of the implementation of the Article 4 Direction.

The implementation of the Article 4 Direction and requirement for planning permission is to encourage and maintain balanced and mixed communities that support the needs of all groups in society. Over the long term it should also help to improve community safety and community cohesion and encourage more mixed housing provision, which has a positive impact.

Equality information on which above analysis is based

This Equalities Analysis has also been informed by previous equalities analyses undertaken for planning policy documents, our evidence base documents and our local knowledge and expertise.

Mitigating actions to be taken

The above analysis highlights that the implementation of the Article 4 Direction will largely give rise to positive impacts. No specific impacts have been identified that would affect people differently as a result of their sexual orientation.

Human Rights

There are 16 rights in the Human Rights Act. Each one is called an Article. They are all taken from the European Convention on Human Rights. The Articles are The right to life, Freedom from torture, inhuman and degrading treatment, Freedom from forced labour , Right to Liberty, Fair trial, Retrospective penalties, Privacy, Freedom of conscience, Freedom of expression, Freedom of assembly, Marriage and family, Freedom from discrimination and the First Protocol

Possible impacts (positive and negative) of proposed policy/decision/business plan

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 Henshaw Street have been considered under the Human Rights Act 1998, 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 and both have been taken into account by the council in the consideration of consulting upon the making of this non-immediate Article 4 Direction. The effect of the Article 4 Direction will not be to interfere with the existing development rights enjoyed by the residents of Henshaw Street as the Article 4 Direction does 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. The effect of the Article 4 Direction being made will be to reduce harm to the amenity of existing residents and to also encourage a balanced and mixed community. The council considers that the advantages of making the Article 4 Direction substantially outweigh the disadvantages to those residents who will no longer be able to benefit from the permitted rights granted for any future change of use.

Information on which above analysis is based

Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with the European Convention on Human Rights (ECHR). Various Convention rights may be engaged in the process of making and considering the Article 4 Direction, including under Articles 1 and 8 of the First Protocol. The European Court has recognised that “regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole”. Both public and private interests are to be taken into account in the exercise of the council’s powers and duties as a local planning authority. Any interference with a Convention Right must be necessary and proportionate.

Mitigating actions to be taken

N/A

Section 5: Further actions and objectives

5. Further actions			
Based on the initial analysis above, please detail the key areas identified as requiring more detailed analysis or key mitigating actions.			
Number	Description of Issue	Action	Timeframe
1	The initial decision would be to confirm an Article 4 direction and formally implement it.	Guidance suggests that the need and effectiveness for Article 4 directions should be monitored at regular intervals. This would be subject to committee approval but would suggest a yearly review is appropriate. This does not need to be reflected in any recommendations at this stage.	Annually