



Cabinet

12 December 2012

Request for Article 4 Direction to prevent the conversion of residential properties in Starre Road, Bury St Edmunds to Houses in Multiple Occupation

1. Summary and reasons for recommendations

- 1.1 A letter has been received from the occupiers of 41 Starre Road, Bury St Edmunds requesting the Council places an Article 4 Direction on Starre Road to prevent the conversion of properties to Houses in Multiple Occupation (HMOs). A petition containing 44 signatures was attached to this request, which will be formally presented to the Cabinet under this agenda item. Additional letters have been received from occupiers of 54 and 23 Starre Road.
- 1.2 The request is due to work currently underway to 37 Starre Road into an HMO for 6 individual occupants. This is permitted development not requiring planning permission.
- 1.3 Works are currently being undertaken on site, comprising the construction of a single storey rear extension and internal alterations which are being dealt with by the Building Control Section.

2. Recommendations

- 2.1 Due to the fact that there are no other HMOs in Starre Road and none within 0.5 miles, Officers consider that it would not be prejudicial to the proper planning of the area or constitute a threat to the amenities of the area should 37 Starre Road be occupied as a HMO and accordingly there is insufficient evidence to justify an Article 4 Direction in this instance.
- 2.2 In accordance with Section 9.12 of the Council Procedure Rules of Part 4 of the Constitution, the Cabinet is required to consider the petition and is requested to make a formal decision on whether to serve an Article 4 Direction on Starre Road, Bury St Edmunds.

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3. Corporate priorities

3.1 The recommendations meet the following, as contained within the Corporate Plan:

Corporate priority 1: *'Working together for strong, healthy and diverse communities'*; and

Corporate priority 2: *'Working together for prosperous and environmentally-responsible communities'*; and

Corporate priority 3: *'Working together for an efficient council'*.

4. Key issues

4.1 The request for the Article 4 Direction to prevent the conversion of a dwellinghouse to a House in Multiple Occupation (currently allowed under permitted development) stems from concerns over:

- (i) impact on the character of the area;
- (ii) additional pressure on parking in the area;
- (iii) advice from Department for Communities and Local Government (DCLG) in that local consultation should be carried; and
- (iv) immediate action is required as conversion to No 37 is currently underway.

5. Evidence Base

5.1 Discussions have taken place with the Environmental Health Team responsible for dealing with HMOs. They are very few in Bury St Edmunds, numbering only 40 in total, and none within the immediate vicinity of the site with the closest being located in Abbot Road. As such there is no evidence that there is a pre-existing problem of C4 Uses in this area.

5.2 Officers are aware that residents do park their cars on the road but there is ample off-street parking with most properties having drives and garaging. It is not considered that the area in question has a serious on-street parking problem, (however this is not a formal Highway Authority Response). Furthermore, the property in question currently is a dwelling with 6 bedrooms which have been created. Given this fact, it is not considered that there is any evidence that its use as a HMO, by 6 individuals, would generate any more on street parking than the current lawful use of the site.

5.3 An HMO is a property that is shared by three or more tenants who are not members of the same family. Depending on the exact type of HMO, some landlords must have a licence from the Council. Notwithstanding this however, all HMOs, whether the landlord needs a license or not, are subject to Management Regulations and Inspections under the Housing Health and Safety Rating System (HHSRS), a risk assessment based approach for Landlords to ensure that the property is managed properly and meets certain safety standards. As part of this process the Council can, if it sees fit, take enforcement action under Environmental Health Legislation against the landlord where it is considered this to be appropriate.

6. Other options considered

6.1 To designate an Article 4 Direction; however, given the lack of evidence (as set out in paragraph 5 above), this option was dismissed by Officers.

7. Consultation

7.1 There is a requirement to consult residents if the decision is made to designate an Article 4 Direction, before any such designation is confirmed. In this particular instance, the request has come from residents.

8. Financial and resource implications *(including asset management implications)*

8.1 Should a decision be made to designate an Article 4 Direction, then staff resource will be required to designate and consult on this issue. There is also a longer term commitment to monitor and review Article 4 Directions.

8.2 See Paragraph 10. 4 below for details relating to cost claim for abortive work.

9 Risk/opportunity assessment

Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
	High/Medium/Low		High/Medium/Low
Article 4 designated without evidence to substantiate designation	Medium	Report to be considered by Cabinet	Low

10. Legal and policy implications

10.1 In April 2010 changes in planning legislation were put in place to allow for more flexibility in the housing market and the provision of Houses in Multiple Occupation (HMOs) without the requirement to first secure planning permission.

10.2 Changes were made at Part I of the Town and Country (General Permitted Development) Order which allows for a family dwelling house (Use Class C3) to be converted to HMO (Use Class C4 – 3 to 6 people unrelated living in a dwelling where they share basic facilities).

10.3 Legislative changes also allow Councils where they consider it appropriate to serve Article 4 Directions which remove permitted development rights.

10.4 The Council does, under the provisions of Part 6 of the Town and Country Planning (General Permitted Development) Order 1995 have the powers to serve an Article 4 Direction with immediate effect. However, the use of Article 4 Directions to remove national permitted development rights should be limited to situations where it is necessary to protect the local amenity or wellbeing of the area (Paragraph 200 National Planning Policy Framework). It is further confirmed that there is a potential claim of costs against the Council for abortive costs where planning permission is subsequently refused for works which would otherwise have been Permitted Development. Furthermore there is the ability of an individual to pursue the matter through the Local Government Ombudsman if it is considered that such an action constituted maladministration.

10.5 It should be noted that the Council has previously used Article 4 Directions generally in relation to the protection of the historic fabric of the town's Conservation Areas.

11. Wards affected

11.1 Minden

12. Background papers

12.1 Department for Communities and Local Government Replacement Appendix D to Department of Environment Circular 9/95: General Development Consolidation Order 1995.

13. Documents attached

13.1 None; however, the petition has been circulated to the Cabinet.

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