

<b>REPORT TO:</b>	<b>Planning Committee - 26 October 2022</b>
<b>SUBJECT:</b>	<b>Houses in Multiple Occupation (HMO) in Arun</b>
<b>LEAD OFFICER:</b>	<b>Neil Crowther, Group Head of Planning</b>
<b>LEAD MEMBER:</b>	Councillor Terence Chapman
<b>WARDS:</b>	<b>Marine, River and Hotham</b>
<b>CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION:</b>	
The recommendations supports: -	
<ul style="list-style-type: none"> <li>• Improve the Wellbeing of Arun;</li> <li>• Delivering the right homes in the right places.</li> </ul>	
<b>DIRECTORATE POLICY CONTEXT:</b>	
The proposals will help to enhance the quality of the natural and built environment, protect the district's natural and heritage assets and to promote economic growth in a sustainable manner, striking a balance between the need for development and the protection of scarce resources.	
<b>FINANCIAL SUMMARY:</b>	
The designation of an Article 4 Direction would remove permitted development rights for small scale HMOs and make them subject to requiring planning permission. The consequence of this is a loss of planning application fees. There will be an administrative and resource cost to preparing the Article 4 Directions that can be accommodated within existing budgets.	

## **1. PURPOSE OF REPORT**

- 1.1. The report seeks the Planning Committee's agreement that Article 4 Directions removing Permitted Development rights for smaller scale Houses in Multiple Occupation (i.e.C4 Use Class), be established covering the three specific Wards of Marine and Hotham (Bognor Regis) and River (Littlehampton). The report further seeks that the harm to the specific wards that is identified in the BRE evidence study is used as a material consideration for decision making.

## **2. RECOMMENDATIONS**

- 1.2. Planning Committee agrees that notice is given of the authority's intention to designate Article 4 Directions under Article 4(1) Schedule 3 (1) separately, for the three Wards of Marine, Hotham and River, following a notice period of six weeks (including to the Secretary of State) commencing on 02/11/21 (which specifies twenty one day representation period ).

- 1.3. Agrees any representations and amendments be reported to back to planning Committee on 11 January, prior to recommending the Article 4 Directions are confirmed by Full Council on 18 January to commence on 19 January 2023.
- 1.4. Agrees that the collective evidence studies demonstrably show harm to the Wards of River, Marine and Hotham, arising from the concentration of HMO developments and that this may be used as a material consideration in refusing further HMO proposals in those areas.

## **2. EXECUTIVE SUMMARY**

- 2.1. The report sets out the evidence base establishing a planning justification for the designation of Article 4 Directions in the three wards of Marine and Hotham (Bognor Regis) and River (Littlehampton). This measure will remove permitted development rights for proposals for C4 Houses in Multiple Occupation (HMO) and make them subject to a planning application. The collective evidence to support this approach is primarily, set out in the BRE Study and a previous report to Planning Committee (25 November 2021) showing demonstrable harm in the three identified wards. This this may be used as a material consideration in determining planning applications for further HMO proposals in those wards. This report, therefore, recommends that the notification process for Article 4 Directions be implemented and that the start date is confirmed by Full Council in the new year which will allow sufficient time for the associated notification and representations procedures to be completed. This intervention will help to safeguard the amenity of those areas affected and future regeneration of Bognor Regis and Littlehampton.

## **3. DETAIL**

- 3.1. At Full Council on 15 January 2020 a motion was agreed as follows;

*That Officers be requested to explore what options might exist for introducing further controls on the definition, number and quality of Homes in Multiple Occupation and prepare appropriate reports for the relevant decision body of the Council.”*

- 3.2. Consequently, officers from Housing and Planning Policy were instructed to consider the different types of HMO (a definition of Houses in Multiple Occupation is set out in Appendix 1 to this report) and their distribution within Arun Local Planning Authority area. This included reviewing any associated evidence that could be used to inform decisions, both with respect to need for further licensing, and in relation any justification to introduce planning regulation via an Article 4 Direction (s).
- 3.3. Planning Committee will be familiar with the application of Article 4 Directions under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in the regulation of extensions and other changes to buildings within Conservation Areas. This instrument removes specified permitted development rights and can be applied to a defined area or to the whole of the authority area. The removal of permitted development rights means that planning applications are required to be submitted for matters which

would otherwise have been permitted development. An Article 4 Direction does not create a new/additional planning policy.

- 3.4. The adopted Arun Local Plan (2011-2031) includes policy H SP4 for regulating HMO developments for those C3 class housing through changes of use/conversions that require planning permission (i.e. excluding smaller C4 use HMOs which enjoy permitted development rights). The policy seeks to secure well balanced sustainable communities, with adequate parking and social infrastructure. The policy strikes a balance, recognising the contribution of HMOs to the economy particularly, as a source of housing for people on low incomes, those on benefit payments, students, seasonal workers, and those starting off in the economy as young professionals. However, the policy also recognises that a large concentration of HMOs can have significant and potentially damaging impact on the amenity of a local area, such as noise and disturbance, generation of more refuse and a greater demand for off-street parking.
- 3.5. In relation to HMOs, the Article 4 instrument would only bring proposals for change of use/conversion of C3 housing to class C4 HMO under the Development Management process requiring a planning application and determination against policies and material considerations (planning fees would, however, be forgone).
- 3.6. Introducing such a mechanism may be necessary where HMOs are generating amenity issues individually or cumulatively, within an area. The effect of this could be to improve the standard and/or restrict the presence HMO development in an area.
- 3.7. The initial scoping work concluded that there was insufficient evidence to justify proceeding through either the Licensing or Article 4 Direction regulatory routes, and this conclusion was reported to:
  - Housing and Customer Services Working Group on 22 October 2020;
  - Planning Committee 25 November 2020.
- 3.8. The Planning Committee 25 November 2020 minute stated: -

*“The Committee RECOMMEND TO FULL COUNCIL that: -*

*The Council undertake further research with housing services in order to establish robust evidence to determine the justification and role for designating Article 4 Direction(s) in Bognor Regis as a priority and to keep the matter under review for Littlehampton, unless the work also confirms that there is sufficient justification to bring a further Article 4 Direction(s) forward at the same time.”*
- 3.9. This report, therefore, updates Planning Committee on the further research commissioned jointly with Housing and Planning Services, in the spring of 2021 – the report is titled:-

*BRE Integrated Dwelling Level Housing Stock Modelling and Database for Arun District Council: Additional Analysis of the Private Rented Sector.*

- 3.10. The above BRE Study (Background Paper 1), is now finalised and sets out an analysis of available evidence on HMOs in Arun Local Planning Authority area together with conclusions and recommendations on the need for additional licensing and whether Article 4 Directions may be designated.
- 3.11. A separate report has already been considered by Environment Committee on 14 July 2022 dealing with the licensing matters which considered several regulatory indicators assessing property standards including state of repair and hazards within HMOs (Background Paper 2).
- 3.12. This report focusses on the findings of the BRE study relevant to the regulation of HMOs from a planning perspective i.e. the impact on amenity which includes environmental considerations and 'Anti-social Behaviour' (ASB). The BRE Study in section 2.2.4 explains that ASB can have a personal individual impact (e.g. harassment), nuisance impact (e.g. trouble, annoyance in the community at large) and environmental impact (within public space/buildings amenity - such as vandalism for example).
- 3.13. The BRE Study identifies that: -
- There are an estimated 1,396 Houses in Multiple Occupation (HMO) in Arun Local Planning Authority area
  - Marine ward has the highest number of HMOs (193 HMOs, 10% of private rented stock in that ward), followed by River ward (177 HMOs, 9%) and Hotham ward (156 HMOs, 14%)
  - The HMOs in all three of these wards stand out as also having higher levels of category 1 hazards: i.e. a hazard which is a serious and immediate risk to a person's health and safety (Marine 8%, River 5%, Hotham 9%)
  - Overall, the percentage of dwellings in the private rented sector across Arun is 19%, which is comparable to the national average of 19%
  - Of the 23 wards in Arun, 7 have a percentage of private rented sector dwellings greater than the national average, in particular Marine (52.8%), River (40.5%) and Hotham (39.2%)
  - Of the wards within Arun with over 30% private rented stock, Marine and River ward has the highest level of category 1 hazards (9%) and disrepair (5%)
  - Compared to Arun's overall private rented stock, all three of these wards generally tend to have slightly higher levels of each of the property condition indicators
  - Incidents of Anti-Social Behaviour (ASB) in recent years (2019 and 2020) have been highest in River and Marine wards
  - 75% of private rented dwellings in Marine ward are located in the 20% most deprived Lower Super Output Areas (LSOA) in England, closely followed by 74% in River ward and 52% in Hotham ward (these are all notably higher than the figure for Arun's private rented stock as a whole (27%))

- 3.14. The analysis and data in the BRE report brings together indicators that relate to condition of properties and wider ASB data. It is the ASB data together with other wider environmental amenity data that is of relevance to determining the justification for designating an Article 4 Direction.
- 3.15. For example, Planning Committee on 25 November 2020 considered: -
- Private Sector Housing Register data on housing complaints and noise complaints.
  - Census Lower Super Output Area deprivation indicators looking at Crime; Barriers to Housing Services; Living Environment.
- 3.16. That analysis (although some of the data was incomplete), pointed to potential clusters of amenity related problems arising in Bognor Regis and that Littlehampton should also be kept under review.
- 3.17. Whilst it is not possible to attribute ASB specifically to particular tenures or occupiers in an area, as they can occur across all tenures and types of households and be misreported, it is possible to look at where ASB problems are clustered together with deprivation and other associated ward HMO characteristics, to gauge whether threshold problems exist in an area demonstrating harm, and that these matters would therefore, appropriately be resolved through imposing an Article 4 Direction. This would require HMO development to be subject to a planning application which given the demonstrable harm from clustering of such developments, could be a reason for refusal using the BRE study as a material consideration in accordance with H SP4 of the Local Plan.
- 3.18. The BRE Study sets out (in section 2.1.3) the rationale for Article 4 Directions and supporting evidence – in particular the ASB incidence by Ward and this is shown in Table 8 (and illustrated on Map 3 which can be compared to Map 1 HMO locations, and Map 2 Licensable HMOs) forming the basis for many of the threshold points listed under paragraph 4.13 above.
- 3.19. Furthermore, Table 12 (page 54 of the BRE Study) demonstrates that Marine, River and Hotham Wards stand out across the deprivation and ASB indicators, their share of Arun’s HMOs and indeed their share of private rented stock is significantly above national thresholds. The BRE Study, therefore, considers that these locations may be considered for targeted interventions (i.e. introducing Licensing controls and Article 4 Directions).
- 3.20. A number of other wards and locations are of interest which although not currently demonstrating these levels across all indicators, nevertheless, appear to show signs of emergent issues (e.g. Courtwick with Toddington) which should be monitored.

## **Conclusion**

- 3.21. Officers consider that there is sufficient evidence with the BRE Study and the previously reported data, collectively, to demonstrate harm within the three wards identified, which warrants planning intervention through imposing Article

4 Directions. This would require HMO development to be subject to a planning application which, given the demonstrable harm from clustering of such developments within the private housing stock within Marine and Hotham (Bognor Regis) and River (Littlehampton) Wards, could in the opinion of officers be a reason for refusal using the BRE study as a material consideration. This will help to safeguard the amenity of those areas and future regeneration of Bognor Regis and Littlehampton.

3.22. The most appropriate route, therefore, would be:-

- The Town and Country Planning (General Permitted Development) (England) Order 2015 - SCHEDULE 3: Procedures for Article 4 directions
- Procedure for article 4(1) directions without immediate effect

3.23. This route allows the Article 4 Direction to specify when it will come into effect following a statutory notice (to all occupiers and in at least two locations within the Wards affected, and separately, to the Secretary of State); and an advert specifying a period of 21 days for representations. Following the representation period, the Direction date must be confirmed a minimum of 28 days from the close of the representation period and before 2 years. The logistics of this exercise will need sufficient preparation time to prepare the statutory Notice, mapping, advert and mailout including subsequent confirmation by the Council following the representation period. This is achievable in existing budgets.

3.24. Committee should request the Group Head of Planning make the necessary preparations with legal and planning services with a view to confirming the Article 4 Directions via Planning Committee following a notice and representation period (timetable subject to confirmation of the regulation consultation requirements):-

- Notice 6 weeks 02/11/22- 14/12/22
- Representation period 21 days 02/11/22 – 23/11/22
- Report to Planning Committee 11/01/23 on amendments if necessary
- Confirmation Full Council 18/01/23 to come into effect 19/01/23

#### **4. CONSULTATION**

4.1. The Planning and Housing Services have coordinated on the commissioning of the BRE Evidence base study and its outputs and the earlier collation and reporting of available evidence in 2020.

#### **5. OPTIONS / ALTERNATIVES CONSIDERED**

The Council can choose to make the Article 4 Directions in response to the evidence on the environmental impact of HMOs and help to safeguard the amenity of the affected Wards and Towns or the Council can choose not to introduce Article 4 Directions and rely on other licensing interventions – however, these measures would not regulate the number of HMOs or wider amenity considerations.

**6. COMMENTS BY THE GROUP HEAD OF CORPORATE SUPPORT / SECTION 151 OFFICER**

- 6.1. The implementation of the recommendations can be accommodated within existing budget and resources.

**7. RISK ASSESSMENT CONSIDERATIONS**

- 7.1. Implementing the recommendation will minimise the risk of needing further interventions and associated costs to the Council in taking enforcement and other environmental measures.

**8. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER**

- 8.1. Under the Planning Acts the Council has the powers to introduce Article 4 Directions in accordance with regulations, removing Permitted Development rights, in order to protect amenity and the environment and ensure the effective planning and regeneration of local communities.

**9. HUMAN RESOURCES IMPACT**

- 9.1. There are no implications arising from the proposals.

**10. HEALTH & SAFETY IMPACT**

- 10.1. The proposals should help to improve the amenity and regeneration prospects of the wards and towns affected as well as the concentration and quality of HMO accommodation, leading to healthier and safer living conditions.

**11. PROPERTY & ESTATES IMPACT**

- 11.1. There are no direct implications for Council property. However, the proposals would mean that any land and property owned by the Council put forward, falling within the affected wards, for small scale C4HMO development would be subject to planning approval.

**12. EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE**

- 12.1. There is a risk that the availability of smaller scale HMO property for rent may be restricted in the Wards affected at a time where there is increasing cost of living (i.e. energy and food price inflation) impacting on more disadvantaged households finding suitable living accommodation.

**13. CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE**

- 13.1. There are no direct adverse implications for Climate Change and the proposed recommendations are likely to improve the amenity of the Wards affected through ensuring that smaller scale HMOs are subject to planning regulation.

#### **14. CRIME AND DISORDER REDUCTION IMPACT**

- 14.1. The proposed recommendations will help to regulate the concentration of smaller scale HMO properties within the Wards identified, by making smaller scale HMO subject to planning applications.

#### **15. HUMAN RIGHTS IMPACT**

- 15.1. There is a risk that the availability of smaller scale HMO property for rent may be restricted in the Wards affected at a time where there is increasing cost of living (i.e. energy and food price inflation) impacting on more disadvantaged households finding suitable living accommodation.

#### **16. FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS**

- 16.1. There are no implications.
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#### **CONTACT OFFICER:**

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#### **BACKGROUND DOCUMENTS:**

Background Paper 1: "BRE Integrated Dwelling Level Housing Stock Modelling and Database for Arun District Council: Additional Analysis of the Private Rented Sector including HMOs":-

<https://www.arun.gov.uk/supplementary-planning-documents-spds>

Background Paper 2: Planning Committee Wednesday 25 November 2020:

<https://democracy.arun.gov.uk/ieListDocuments.aspx?CId=137&MId=1319>

## **Appendix 1: Definition of house in multiple Occupation (HMO)**

The Government definition of a House in Multiple Occupation, commonly known as a HMO, is a property rented out by at least three people who are not from one 'household' (for example a family) but share facilities like the bathroom and kitchen. It is sometimes called a 'house share'.

Generally, HMOs are defined as either small HMOs (as above) or large.

The planning definition set out in the Town and Country Planning (Use Classes) Order 1987 (as amended in October 2010) distinguishes between large and small HMOs: -

- 'Small' HMOs of up to six people are C4 use class and can convert to C3 housing via permitted development.
- 'Large' HMOs of seven or more occupants are 'Sui Generis' use class requiring planning permission.