

Report to Cabinet

Subject: Houses in Multiple Occupation (HMOs) in the Netherfield Ward

Date: 08 December 2022

Author: Head of Development and Place

Wards Affected:

Netherfield

Purpose:

This an updated report is to inform Members of the suitability of implementing an Article 4 direction to introduce a requirement for planning permission to change from a C3 Dwellinghouse (family dwelling) to a C4 HMO (3-6 unrelated people who share facilities) in the Netherfield Ward.

Key Decision: No

Recommendation(s)

THAT Cabinet:

- 1) Agree that there is currently insufficient evidence to demonstrate that an Article 4 direction or any other measure is necessary to protect local amenity or the well-being of the Netherfield Ward.**
- 2) Agree that the overall number of HMOs in the Netherfield Ward should be monitored.**

1 Background

- 1.1 On 20 April 2022 the Council resolved to refer the principle of making of an Article 4 Direction to remove permitted development rights for change of use from Use Class C3 (dwelling house) to Use Class C4 (house in multiple occupation) covering the Netherfield area, to Cabinet. The Council also called upon the government to reverse the legislation it introduced in September 2010 that removed a requirement for planning permission for HMOs, and resolved to write to local members of parliament accordingly.
- 1.2 Permitted development rights are a national grant of planning permission which allow certain building works and changes of use to be carried out without having to make a planning application.

- 1.3 Appendices 1 and 2 were considered by Cabinet on 16 June 2022. Cllr Payne proposed an amended recommendation, seconded by Cllr Hollingsworth which was carried. This is detailed below:
- 1) Share residents' concerns about a potential increase in the number of HMOs in the Netherfield Ward, notes actions already taken by the Council to implement HMO Licensing across the borough and introduce Selective Licensing in Netherfield in 2018.
 - 2) Endorse the Leader of the Council writing to government calling for a reversal of legislation introduced in October 2010 which removed the requirement for planning permission for HMOs and opened up the risk of proliferation of HMOs without adequate input from local communities; and
 - 3) Requests officers to report back to Cabinet within six months with a further update to allow Cabinet to further consider and determine if there is sufficient evidence to demonstrate an Article 4 Direction and/or other measures local amenity or well-being of the Netherfield ward
- 1.4 The Leader and Deputy Leader of the Council have now written to government calling for a reversal of legislation introduced in 2010 which removed the requirement for planning permission for HMOs and opened up the risk of proliferation of HMOs without adequate input from local communities.
- 1.5 An Article 4 direction is a direction made under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015, which enables the Secretary of State or the local planning authority to withdrawn specific permitted development rights across a defined area. The National Planning Policy Framework (NPPF) advises that the use of Article 4 directions to remove national permitted development rights should be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area and in all cases, be based on robust evidence, and apply to the smallest geographical area possible.

2 Proposal

- 2.1 An updated analysis of the suitability of implementing an Article 4 direction is attached at Appendix 3 of the report. The report considers the current evidence available to the Council including the following:
- An assessment of planning applications proposing 7 bedroom HMOs at 56 Meadow Road, 45 Ashwell Street, 112 Victoria Road and 49 Chandos Street. The applications have been determined to be compliant with the NPPF, Greater Nottingham Aligned Core Strategy (Part 1 Local Plan), Local Planning Document and the Parking Provision for Residential Developments – Supplementary Planning Document.

- Concerns raised at a residents meeting held on 03 March 2022 at St Georges Church, Victoria Road Netherfield. None of the concerns either singularly or in combination would merit suitable justification to progress an Article 4 direction.
- A written submission by Tom Randall MP received by the Leader of Gedling Borough Council on 20 April 2022 detailing the results of a survey undertaken by the MP and a County Councillor. The data indicates that the respondents have concerns about HMOs, and whilst these may be valid concerns, this does not demonstrate that an Article 4 direction is justified.
- An analysis of applications made by Landlords for a HMO Licence under the Housing Act 2004. In Netherfield, licences have been granted at 5 properties. The number is one higher than reported previously as a licence issued in 2018 to a property with a Carlton address is actually within the Netherfield Ward. The Council has received HMO license applications for 3 further properties which are still being processed. No licence application has been made for 49 Chandos Street as it is not occupied by 5 people.
- Number of smaller HMOs. The report previously considered by Cabinet on 16 June 2022 stated the precise number of smaller HMOs accommodating 3 or 4 unrelated individuals sharing was unknown but understood to be low. An analysis of applications made under the Netherfield Selective Licensing Area has since identified that there are 3 properties, each with 3 occupants.
- Comments from the Community Protection Manager. Their comments confirm that antisocial behaviour levels reported to the Council in respect of known HMOs in Netherfield remain low and the position is unchanged since June 2022.

2.2 There are 2915 residential properties within the ward of Netherfield. An assessment of the composition of the housing stock in Netherfield concludes that only 0.31% (9 properties) is comprised of HMOs with capacity to accommodate 5 or more unrelated individuals and 0.1% (3 properties) is comprised of HMOs accommodating 3 unrelated individuals. The total number of HMOs in the ward of Netherfield is **12** and **0.41%** of the housing stock is comprised of HMOs. The HMOs are distributed across the ward with the exception of 2 on Chandos Street and at the current time, there does not appear to be an over concentration on one particular locality. The distribution of existing HMOs in the Netherfield Ward is shown at Appendix 4.

2.3 The overall conclusion of the assessment having regard to the requirements set out in the NPPF and the PPG is that there is still currently insufficient evidence to demonstrate that an Article 4 direction is necessary to protect local amenity or the well-being of the Netherfield ward. The situation should however

be monitored to ensure that a proliferation of HMOs does not emerge, in any particular locality or the Netherfield ward as a whole which might then justify further that consideration of an Article 4 direction is required. No other measures are therefore required to protect the amenity or well-being of the Netherfield ward.

3 Alternative Options

- 3.1 An alternative option would be to implement either an Article 4 direction to remove permitted development rights for change of use from Use Class C3 (dwelling house) to Use Class C4 (house in multiple occupation) covering the Netherfield ward which takes effect immediately, or a non-immediate Article 4 direction which would result in permitted development rights being withdrawn upon confirmation of the direction, following local consultation. These options would not however be evidenced based and would not comply with the NPPF and the Planning Practice Guidance (PPG).

4 Financial Implications

- 4.1 There are no direct financial implications arising from the recommendations in this report. Should either of the alternative options be pursued this may give rise to a liability to compensate, as detailed in paragraph 5 Legal Implications, for which there is no budgetary provision.

5 Legal Implications

- 5.1 The statutory power and policy requirements in relation to the making of Article 4 directions are set out in section 2 at appendix 3. The making of such a direction without the necessary justification and evidence as specified in the NPPF could result in the order being challenged. The withdrawal of development rights by an Article 4 direction may give rise to liability to compensate where permission is sought and refused.

6 Equalities Implications

- 6.1 There are no direct equalities implications arising from this report.

7 Carbon Reduction/Environmental Sustainability Implications

- 7.1 There are no carbon reduction/environmental sustainability implications arising from this report.

8 Appendices

- 8.1 Appendix 1 - Article 4 Directions and the suitability of implementation in the Netherfield Ward to introduce a requirement for planning permission to change from a C3 Dwellinghouse (family dwelling) to a C4 HMO (3-6 unrelated people who share facilities)
- 8.2 Appendix 2 – Submission from Tom Randall MP
- 8.3 Appendix 3 – **Updated Assessment:** Article 4 Directions and the suitability of implementation in the Netherfield Ward to introduce a requirement for planning

permission to change from a C3 Dwellinghouse (family dwelling) to a C4 HMO (3-6 unrelated people who share facilities).

- 8.4 Appendix 4 – Distribution of existing HMOs in the Netherfield Ward.

9 Background Papers

- 9.1 National Planning Policy Framework (2021) [National Planning Policy Framework \(publishing.service.gov.uk\)](https://www.gov.uk/publishing.service.gov.uk)
- 9.2 Planning Practice Guidance [Planning practice guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/planning-practice-guidance)
- 9.3 Adopted Local Plan and Policy Documents [Adopted local plan and policy documents - Gedling Borough Council](#)
- 9.4 The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) [The Town and Country Planning \(General Permitted Development\) \(England\) Order 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

10 Reasons for Recommendations

- 10.1 Insufficient evidence exists to support an Article 4 direction to introduce a requirement for planning permission to change from a C3 Dwellinghouse (family dwelling) to a C4 HMO (3-6 unrelated people who share facilities) in the Netherfield Ward.
- 10.2 To ensure continued monitoring of the position.

Statutory Officer approval

Approved by:
Date:

Chief Financial Officer

Approved by:
Date:

Monitoring Officer