

## **Appendix 2 – Updated Evidence**

### **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)**

#### **1.0 Background**

1.1 In April 2010, changes were made to planning regulations to introduce a new Use Class C4 Use Class for small HMOs; residential properties occupied by between 3 and 6 unrelated people who share facilities. Prior to this, there had been no distinction in planning terms between such properties and those occupied as a family home. The April 2010 changes also introduced a requirement for planning permission to be obtained for a material change of use from a Use Class C3 Dwellinghouse to a Use Class C4 HMO (3-6 unrelated people who share facilities). This amendment enabled Local Planning Authorities to assess the merits of individual proposals against relevant policies and any other material considerations such as traffic impacts and antisocial behaviour. Planning permission could either be granted with conditions or refused.

1.2 These changes were largely welcomed by local authorities, particularly those with high student populations where there is often a significant demand for HMOs.

1.3 In June 2010, the coalition government announced its intention to amend The Town and Country Planning (General Permitted Development) (England) Order 2015 (“the GDPO”). to introduce a permitted development right to allow the change the use of a Use Class C3 Dwellinghouse to a Use Class C4 HMO thereby removing the newly introduced requirement to obtain planning permission for this change of use. The changes were subsequently implemented and took effect in October 2010.

1.4 Local Planning Authorities wishing to remove the permitted development right for changes of use from Use Class C3 to Use Class C4 would be required to implement provisions under Article 4 of the GDPO. This allows Local Planning Authorities to withdraw “permitted development” rights for specified development where it considers it is expedient that the development should not be carried out unless permission is granted for it on an application.

#### **2.0 The Use of Article 4 Directions**

2.1 The National Planning Policy Framework (NPPF) at paragraph 54 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. The advice is reaffirmed in the Planning

Practice Guidance (PPG) at Paragraph 038, Revision date 20 08 2021. Local Planning Authorities can therefore only make an article 4 direction where it can justify both its purpose and extent. Use of article 4 directions should be limited to situations where it is necessary to protect the local amenity or wellbeing of the area and the Local Planning Authority should clearly identify the potential harm the direction is intended to address.

2.2 An article 4 direction does not prevent the type of development specified but does ensure that an application for planning permission must be made prior to any development which it restricts taking place. If a Local Planning Authority makes an article 4 direction it can be liable to pay compensation to those whose development rights have been withdrawn.

2.3 Two types of article 4 direction can remove permitted rights to change from a Use Class C3 Dwellinghouse to a Use Class C4 HMO. Firstly, an article 4 direction may take effect immediately but this must be confirmed by the local planning authority following consultation within six months or it will lapse. Secondly, a non-immediate article 4 direction may be made which results in development rights being withdrawn only upon confirmation of the direction following local consultation. The Secretary of State is able to cancel or modify any direction made.

2.4 The legal requirement for a non-immediate direction is that the local planning authority considers it is expedient that the development should not be carried out unless permission is granted for it on an application. The circumstances in which an immediate direction can restrict development are limited and the local planning authority must also consider that the development to which the direction relates presents an immediate threat to local amenity or the proper planning of an area. The immediacy of the threat and compensation liability may be considerations in determining which type of direction to use.

2.5 A direction coming into effect immediately would have the clear advantage of straight away requiring Use Class C4 HMOs to require planning permission. However, it would also expose the Council to potentially very high levels of compensation liability in cases where applications submitted within the first 12 months of the removal of the permitted development rights were refused or granted subject to conditions, such compensation being limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights

2.6 A non-immediate direction with a prior notice period of 12 months would avoid compensation liability and also allow the results of local consultation to be taken into account in advance of the Council deciding to confirm the direction removing permitted development rights.

2.7 As detailed above, any article 4 direction must be supported by robust evidence in order to comply with the requirements of the NPPF and the PPG and applied in a measured and targeted way

### 3.0 Composition of Housing Stock Across the Borough

3.1 The table below shows the number of HMOs within each ward within Gedling Borough and shows the percentage of total properties that comprise HMOs. This in turn allows the total number of HMOs within the Borough to be calculated. It should be noted that there are limitations in respect of the accuracy of this data. The data has been collected from various sources which includes; the Register of Licenced of HMOs, the planning register which includes planning applications and applications for lawful development certificates and Building Control records which include initial notices where private Registered Building Control Approvers supervise the works as well as those where the Council have approved the works. It should be noted that not all HMOs accounted for within this assessment are currently occupied as such.

Ward	No. of Properties (Valuation Office Agency 2024)	No. of HMOs	% HMOs
Bestwood St Albans	2,850	1	0.03
Calverton	3,440	0	0
Carlton	2,870	4	0.13
Carlton Hill	3,900	19	0.48
Cavendish	2,700	3	0.11
Colwick	1,200	5	0.42
Coppice	1,840	2	0.10
Daybrook	3,150	15	0.47
Dumbles	2,130	0	0
Ernehale	2,900	2	0.06

Gedling	3,230	6	0.18
Netherfield	3,120	36	1.15
Newstead Abbey	3,930	0	0
Phoenix	2,560	2	0.078
Plains	3,380	1	0.029
Porchester	3,380	12	0.35
Redhill	2,580	1	0.038
Trent Valley	2,710	1	0.037
Woodthorpe	3,000	2	0.066
<b>Total</b>	<b>54,870</b>	<b>112</b>	<b>0.20</b>

3.2 The table shows that there are a total of 54,870 residential properties within Gedling Borough (Valuation Office Agency 2024). The assessment of the composition of the housing stock within Gedling Borough shows that there are a total of 112 HMOs which comprise 0.20% of the total housing stock.

3.3 The Ward with both the greatest number of HMOs and proportion of HMOs as a percentage of total dwellings is Netherfield with a total of 1.15% of properties being HMOs. There are 3120 residential properties within the ward of Netherfield (Valuation Office Agency 2024) with a total of 36 properties being HMOs. Carlton Hill Ward has a total of 0.48% of properties being in use as HMOs, or 19, and Daybrook Ward has 0.47% of properties in use as HMOs, or 15.

## 4.0 Current Evidence

### Recent Planning Applications

4.1 Following the consideration of the Report to Cabinet of 4<sup>th</sup> September 2025 in respect of HMOs within the Netherfield Ward, there have been 3 determined applications for planning permission within the borough to change the use of a property from a dwelling to a HMO proposing the occupation of the property by more than 6 unrelated people sharing basic amenities.

4.2 These applications are detailed below:

**2025/0477** 15 Church Drive, Daybrook (Daybrook Ward)

Change of use from Class C3 (dwellinghouse) to Sui Generis House in Multiple Occupation (HMO) for 15 occupants (11 bedrooms, 4 of which are double-occupancy), including demolition of the existing garage, construction of a wraparound single-storey rear and side extension, and internal reconfiguration. A rear-facing L-shaped dormer and two front rooflights are proposed under permitted development rights.

The proposal was **refused planning permission** under delegated powers having been referred to Delegation Panel on the grounds of the impact upon the amenity of neighbouring occupiers due to noise and parking, unacceptable levels of residential amenity for future occupiers and biodiversity impacts.

**2025/0137** 3 and 5 West Street, Arnold (Daybrook Ward)

Change of use from social club to 9 person HMO (Sui Generis use) with minor external alterations for new windows

The proposal was **granted planning permission** by the Borough Council under delegated authority having been referred to Delegation Panel.

**2025/0629** 18 Clementine Drive, Mapperley (Plains Ward)

Change of use from C3 dwelling to sui generis, 8 bedroom, house in multiple occupation.

The proposal was **refused planning permission** under delegated powers having been referred to Delegation Panel on the grounds of the development would provide insufficient off-street car parking provision in area where there is already significant amounts of on-street parking.

4.3 In addition to the determined planning applications detailed above, the Local Planning Authority is currently considering 1 application for a Lawful Development Certificate for a HMO of up to 6 occupants (Use Class C4) at 23 High Street, Arnold (Daybrook Ward).

4.4 Any Certificates of Lawful Development that have recently been granted for Use Class C4 HMOs are included within the numbers of HMOs detailed within the Report. For clarity, these are not applications for planning permission but seek confirmation that the proposed development is lawful in planning terms, i.e. permitted development, and therefore the usual material considerations are not relevant in the determination of the applications.

4.5 The planning applications detailed above were each considered having regard to the relevant policies contained within the NPPF, Greater Nottingham Aligned Core Strategy (Part 1 Local Plan), Local Planning Document (Part 2 Local Plan) and the Parking Provision for Residential Developments – Supplementary Planning Document.

4.6 The principle of the proposed use, impact upon residential amenity, highway safety, flood risk and other issues were considered in detail by officers in each report and where conflict was found with any of the Councils adopted planning policies or the relevant national policies and it could be demonstrated that harm would arise from the development proposed, planning permission was refused.

4.7 In relation to highway safety, advice was sought from Nottinghamshire County Council as the Highway Authority prior to determining each application and objections were received in respect of the application at 18 Clementine Drive which stated ‘.....the change of use will be into 8-bedroom HMO, which will require 8no. off-street car parking spaces minimum to serve the HMO.

*Houses in multiple occupancy (HMO) will be required to provide parking at a rate of 1 space per bedroom with 1 visitor space per 3 bedrooms or in accordance with the district or borough's standard unless evidence is provided that demonstrates a lower parking provision is appropriate on a case-by-case basis.’*

4.8 Whilst there are no cumulative highway safety grounds identified through the determination of recent planning applications which would support an article 4 direction, the comments of the Highways Authority set out that HMOs should provide parking provision of 1 space per bedroom. This can be relaxed in highly sustainable locations with ready access to services and public transport.

### Parking Impact

4.9 The majority of the ward of Netherfield is characterised by a linear pattern of streets of traditional semi-detached and terraced dwellings fronting the road. The density of the built form means that very few dwellings within the ward benefit from off-street parking.

4.10 In terms of vehicle ownership, the Office for National Statistics Census of 2021 shows that 32.9% of households in the ward do not have a car (compared to 18.3% for Nottinghamshire) 46.8% have 1 car (41.8% for Nottinghamshire) 16.4% have 2 cars (30% for Nottinghamshire) and 3.9% have 3 or more cars (9.9% for Nottinghamshire). The evidence is that car ownership in Netherfield is low when compared to Nottinghamshire and demand for car parking is therefore reduced.

4.11 Whilst parking demand in Netherfield is reduced due to lower car ownership rates, the lack of off-street car parking across the ward means that any areas that have clusters of HMOs that don't benefit from off-street car parking themselves will see increased on-street car parking pressure to the detriment of the amenity of existing residents and highway safety due to indiscriminate parking on the public highway.

4.12 The Government Report Evidence Gathering: Housing in Multiple Occupation and possible planning responses – Final Report' identifies one of the issues arising from high concentrations of HMOs as increases in parking pressure. Given the character of Chandos Street, Ashwell Street and Beech Avenue are typical of Netherfield it is considered that the clusters of HMOs on these streets are increasing parking pressure where there is already considerable off-street parking.

4.13 It is acknowledged that other wards, such as Carlton and Hill and Daybrook do have streets that are characterised by high density development without on-street car parking areas. However, the housing stock of these wards comprises a lower proportion of HMOs and there are not any obvious clusters of HMOs in these areas at this time.

#### Other Considerations

4.14 As set out within the evidence previously considered by Cabinet on 4<sup>th</sup> September 2025, concerns had been raised by Ward Councillors and members of the public in relation to the following considerations.

- Loss of family homes

Comment: There has undoubtedly been a loss of some larger properties which are suitable for families. However, the proportion of dwellings within the ward that have been converted is very low. Furthermore, the Housing Delivery Test measurement (published December 2025) for 2024 / 2025 shows there were 478 homes delivered in the borough against a requirement of 460. There is not currently any evidence that the housing mix in Netherfield is not appropriate.

- Waste management issues and waste bins on pavements

Comment: it is accepted that larger HMOs have the potential to generate more household waste but there is no evidence to suggest that there are currently issues with waste management or collection.

- Drainage issues due to the extensions being constructed.

Comment: The properties being extended utilising permitted development rights and drainage matters therefore cannot be considered by the Local Planning Authority. However, there is currently no evidence to suggest that HMOs are causing problems with drainage.

- Loss of community cohesion

Comment: The proportion of dwellings that have been converted is low and there is no evidence that there is a significant concentration of HMOs or grouping on any particular street at this time.

## **5.0 Antisocial Behaviour**

5.1 The Community Protection Manager has advised that between all of the known HMOs in the borough, antisocial behaviour levels reported to the Council have been very low or non-existent. The majority of complaints are generated by renovation works needed to convert the properties into HMOs. In relation to noise, litter and antisocial behaviour, these matters can be controlled through other legislation and do not require an Article 4 direction.

## **6.0 Conclusion**

6.1 The private rented sector is an important part of our housing market and HMOs form a vital part of this sector, often providing cheaper accommodation for people whose housing options are limited. The available information demonstrates that HMOs in Carlton Hill and Daybrook are distributed across the Wards and comprise a low percentage of the overall number of residential properties.

6.2 Whilst HMOs currently comprise a small percentage of the overall number of dwellings in Netherfield Ward, the evidence shows that there are clusters on Chandos Street and Ashwell Street / Beech Avenue.

6.2 Having regard to the requirements set out in the NPPF and the PPG, it is considered that there is currently sufficient evidence to demonstrate that an Article 4 direction is necessary to protect local amenity or the well-being of the referenced streets within Netherfield Ward. Furthermore, the situation should continue to be monitored to ensure that a proliferation of HMOs does not emerge in any particular locality within any locality within the Borough.