

Report of the Chief Executive

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| HOUSES IN MULTIPLE OCCUPATION IN BEESTON |
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1. Purpose of report

To decide when the Article 4 Direction concerning Houses in Multiple Occupation (HMOs) in Beeston should come into force.

2. Detail

At the meeting in November members decided to proceed with the Direction, with details of the procedures to be left to the discretion of officers. However, following discussions involving the Chair and officers, it is now considered that it would be preferable for members to decide when the Direction should come into force.

It is suggested that members choose between two options:

Option A: The Direction would come into force at a point up to 12 months (an agreed period i.e. 3,6 or 9 months) from the confirmation of the Order (which is anticipated to be considered at the Jobs and Economy Committee meeting in March).

Option B: The Direction would come into force 12 months from confirmation of the Order i.e. approximately March 2022.

The legal implications of the options above, including the advantages and disadvantages are outlined in appendix 1. The next stage is outlined in appendix 2 of the report.

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| <u>Recommendation</u> |
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The Committee is asked to CONSIDER and RESOLVE in favour of either

- **Option A: The Direction would come into force up to 12 months from the confirmation of the order, or**
 - **Option B: The Direction would come into force 12 months from confirmation of the Order,**
- and proceed to the consultation stage as outlined in appendix 1.**

Background papers

Nil

APPENDIX 1Legal implicationsAdvantages and disadvantages of Option A

The key advantage of making the direction effective within 12 months (or earlier) from confirming the Order is that the provisions are brought in sooner, thus enabling the concentration issues to be considered sooner.

However, the key disadvantage is that by giving less than 12 months' notice of the Article 4 Direction means that the local planning authority can be liable to pay compensation to those whose permitted development rights have been withdrawn. Compensation claims can be made against the Council by landowners and developers where the council:

- Refuse planning permission for a development which would have been permitted development if it were not for an Article 4 Direction; or
- Grant planning permission subject to more limiting conditions than the permitted development rules would normally allow.

Compensation can also be claimed for abortive expenditure or losses and damages directly related to the withdrawal of permitted development rights, including abortive expenditure for works carried out under the permitted development rights before they were removed, as well as the preparation of plans for the purposes of any work not then able to be undertaken.

The onus for a claim for abortive expenditure would be upon an applicant to demonstrate what the financial impact has been. At this moment in time it would not be possible to attach a cost to possible claims; there is no precedent for what it might be as it would depend upon the individual circumstances of the claim. There is the potential for any compensation claims (individually or cumulatively) to be significant. These would fall to the Council as local planning authority to pay.

Advantages and disadvantages of Option B

The key advantage of making the Order effective after 12 months of confirmation is that it removes all financial risk to the local planning authority.

The disadvantage of it is that it could encourage more changes of use in the intervening period. It would appear that this approach is the more favoured approach to protect the Council from compensation claims, which have the potential to be considerable.

Conclusions Option A or Option B

Essentially the decision as to whether to make it effective within 12 months or after 12 months comes down to a balance between the potential financial risk to the Council of the direction as compared to the risk of an increase in more HMOs.

A further issue which needs to be considered is the policy basis on which planning applications would be determined following confirmation of an Article 4 Direction. This is in line with Planning Practice Guidance (PPG).

The Article 4 Direction would come into effect 12 months from the next Jobs and Economy committee which is due on 25 March 2021 (25 March 2022) This will allow time for a Supplementary Planning Document (SPD) to be prepared which will include details of overall percentages of non C3 dwelling houses and limitation on 'clustering' of the HMOs to maintain the housing mix within these areas. An SPD is necessary to complement the Article 4, as this alone will only address the need for planning permission. Without additional evidence and planning policy 'backup' via an SPD regarding how such applications will be determined, there is a likelihood that for refused applications, there will be overturns at appeal.

On balance, in view of the unquantifiable financial risk to the Borough Council, it is the Officer view recommended that the Order should become effective 12 months from confirmation in order to avoid potentially costly compensation claims.

Financial implications

The costs of implementing the Order and the associated tasks in relation to this work can be met by existing budgets. However, if the committee decides to make the Order effective within 12 months then then the cost in relation to this is unquantifiable and potentially costly.