
Morley Grove (numbers 57 to 99) Proposed Article 4 Direction Consultation Summary Report

September 2012

SECTION 1 - INTRODUCTION

This Consultation Summary Report summarises the consultation process undertaken by Harlow Council in the preparation and making of the Article 4 Direction which affects numbers 57 to 99 Morley Grove.

The aims of this Report are to:

- summarise the consultation requirements for making Article 4 Directions, as set out in the Town and Country Planning (General Permitted Development) Order 1995 (as amended);
- detail the consultation methods undertaken by the Council to notify owners and occupiers of the affected properties along with other stakeholders;
- provide detail of the consultation responses received during the consultation and how these responses have been considered by the Council;
- demonstrate that the Council has fulfilled the legal requirements relating to Article 4 Directions.

SECTION 2 - BACKGROUND

Article 4 Directions

An Article 4 Direction (under The Town and Country Planning (General Permitted Development) Order 1995 (as amended)) allows the Council to manage change in special areas in a positive way, by removing certain permitted development rights normally available to householders. Where an Article 4 Direction is in place, householders must make a formal planning application to the Council and receive planning permission before carrying out the form of development specified in the Direction. This application would not, however, be subject to a fee.

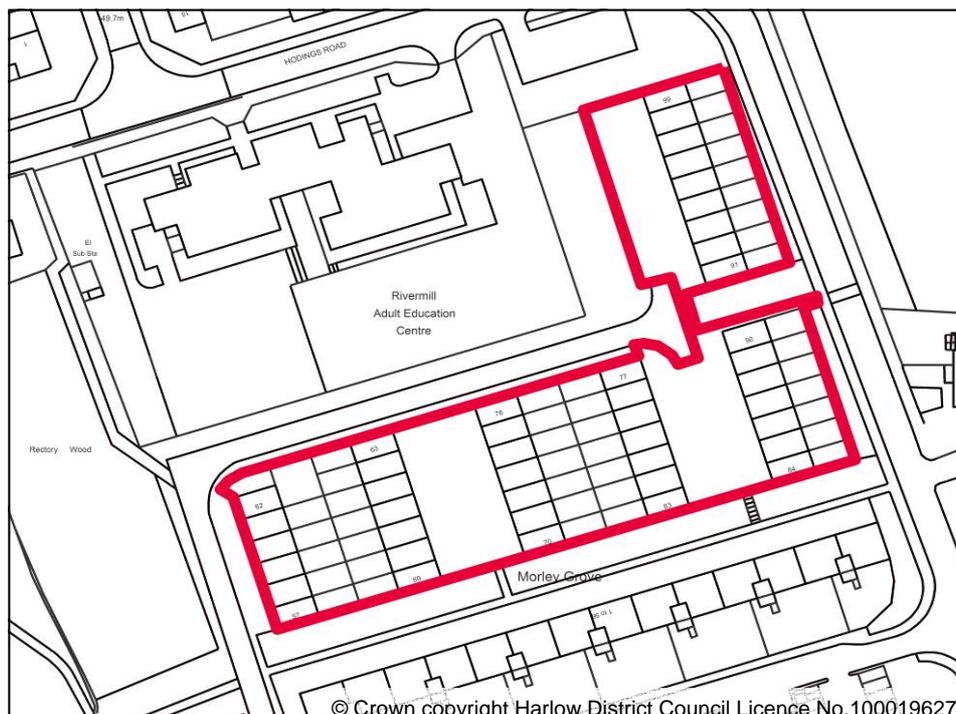
Form(s) of development specified in the proposed Direction

There is one form of development specified in the Direction:

A change of use from a dwelling house into a house in multiple occupation (HMO).

Properties affected by the made Article 4 Directions

The proposed Direction affects numbers 57 to 99 Morley Grove, as outlined by the bold line on the map below.



Houses in multiple occupation (HMOs)

According to The Town and Country Planning (Use Classes) Order 1987 (as amended), HMOs are houses which are inhabited by between three and six unrelated people, as their only or main residence, who share one or more basic amenity (such as a kitchen). HMOs are classed under the C4 use class. Properties which are inhabited by more than six unrelated people are known as large HMOs and fall under the 'sui generis' class (i.e. uses that do not fall within any of the use classes specified in the Order).

The public consultation for the Direction ran from 21st May 2012 to 11th June 2012. It is intended that the Direction will come into force (be confirmed) on 1st July 2013.

Effect of the Direction

Following amendments to legislation in 2010, a change of use from a dwelling house (class C3) to a HMO (class C4) has been included in permitted development rights, meaning the change of use can be made without the requirement of planning permission. The Article 4 Direction removes this permitted development right for all numbers 57 to 99 Morley Grove, meaning planning permission would need to be obtained to change a dwelling house to a HMO. Planning permission already needs to be obtained for changing a dwelling house to a large HMO. Existing HMOs in Morley Grove are not affected by the proposed Article 4 Direction - i.e. the Direction will not be applied retrospectively.

Reasons for this Article 4 Direction

There is recognition at both national and local levels that concentrations of HMOs can have an adverse effect on the character and amenity of existing neighbourhoods through such problems as anti-social behaviour; noise and nuisance; pressure on parking provision; growth in the private rented sector at the expense of owner-occupation; reduced choice of family housing; pressure on local community facilities; and creating an imbalance in the demographic profile of the local community.

There are already a number of existing HMOs in Morley Grove, and they have been subject to a past planning appeal. In dismissing the appeal, the Planning Inspector recognised that the three-storey terraced townhouses situated in Morley Grove, and designed by Frederick Gibberd (Harlow's masterplanner), have a strong identity characterised by the formal layout and complemented by the uniform design of the dwellings. The properties were designed to be occupied by single families, and as such, the walls within them were not provided with sufficient soundproofing to mitigate against more intensive forms of residential occupation. Therefore, it is considered that the properties are not suitable for use as HMOs.

The Planning Inspector also considered that the existing HMOs have resulted in a general loss of amenity to the area and to neighbouring residents, arising from:

- noise (including noise transmission from the HMOs to neighbouring properties, and loud music and shouting from HMOs tenants and visitors);
- increased parking pressures and obstruction;
- general disturbance (partly caused by increased traffic movements);
- anti-social behaviour; and
- lack of adequate refuse provision (resulting in overflowing rubbish and reports of rodents).

The Council recognises the contribution that HMOs can make to the provision of low cost housing in sustainable locations. However, a high concentration of HMOs in this part of Morley Grove would be out of character with its cohesive nature, and would result in the exacerbation of the negative impacts identified above. This would therefore conflict with policies in the adopted Local Plan, which seek to ensure development is compatible with the character of an area and does not result in overdevelopment or adverse effects to the amenities of residents.

The Article 4 Direction will, when it comes into force, allow the Council to positively manage the location of new HMOs in this part of Morley Grove, in order to create and maintain sustainable and healthy communities.

SECTION 3 - LEGISLATIVE REQUIREMENTS

The procedures that a Local Planning Authority must carry out when proposing and bringing an Article 4 Direction into force are contained within the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (GPDO).

Proposing (making) an Article 4 Direction

Article 5(1) of the GPDO states that when proposing an Article 4 Direction, a Local Planning Authority must provide Notice of the Direction, as soon as is practicable after it has been made, as follows:

- publish an advertisement in the local press
- display site notices at 2 or more locations within the area which the Direction affects, for a period of at least 6 weeks
 - Article 5(5) of the GPDO states that, where a site Notice is, without any fault or intention of the Local Planning Authority, removed, obscured or defaced before the end of the consultation period, the Authority shall comply with the regulations providing they have taken reasonable steps for the protection of the notices, including, if need be, their replacement
- serve notice to the owner and occupier of every part of the land affected by the Direction
 - Article 5(2) of the GPDO states that a Local Planning Authority need not serve a notice to every owner and occupier in the affected area if they consider that it is impracticable because it is difficult to identify or locate the persons, or the number of owners or occupiers means it is impracticable to notify them

Article 5(4) of the GPDO states that the Notice must:

- include a description of the development and the area which the Direction affects, and a statement of the effect of the Direction
- specify that the direction is made under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 (as amended)
- name a place where a copy of the Direction and a copy of the map defining the area to which it relates may be seen at all reasonable hours
- specify a consultation period of at least 21 days, stating the date on which that period begins, within which any representations concerning the Direction may be made to the Local Planning Authority;
- specify the date on which it is proposed that the Direction will be brought into force (confirmed), which must be at least 28 days – but no longer than two years – after the date that the consultation period begins.

Article 5(6) states that the Local Planning Authority must also send the Notice (along with a map defining the area to which the Direction relates) to the Secretary of State and the County Council Planning Authority on the same day that Notice of the Direction is first published or displayed.

Article 4(9) states that the Local Planning Authority must take into account all responses received during the consultation period.

Bringing into force (confirming) an Article 4 Direction

Article 4(7) states that the Direction will come into force (be confirmed) on the date specified by the Local Planning Authority.

The Local Planning Authority shall not bring the Direction into force until at least 28 days after the latest date on which any Notice relating to the Direction was served or published, or until after the expiration of a longer period as may be specified by the Secretary of State.

Article 4(11) and 4(12) state that the Local Planning Authority shall, as soon as practicable after the Direction has been brought into force, give notice of this, as follows:

- publish a local advertisement;
- display site notices at 2 or more locations within the area to which the Direction affects, for a period of at least 6 weeks;
- serve notice to the owner and occupier of every part of the land affected by the Direction

Article 5(4) states that the aforementioned Notice must:

- include a description of the development and the area to which the Direction relates, and a statement of the effect of the Direction;
- specify that the direction is made under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 (as amended);
- name a place where a copy of the Direction and a copy of the map defining the area to which it relates, may be seen at all reasonable hours;

The Local Planning Authority must also send the Notice to the Secretary of State (along with a map defining the area to which the Direction relates, and a copy of the confirmed Direction).

SECTION 4 - CONSULTATION METHODS USED

The consultation period for the Morley Grove (numbers 57 to 99) Proposed Article 4 Direction ran from 21st May 2012 to 11th June 2012.

Responding to the Consultation

Interested parties were able to respond to the consultation:

- by emailing a dedicated email address (morleygrovearticle4@harlow.gov.uk);
- by writing to the Council's Forward Planning team

Notices to Property Owners

In line with Article 5(1) of the GPDO, Harlow Council sent a letter and information sheet to numbers 57 to 99 Morley Grove on 18th May 2012. Letters and information sheets were also sent to individuals holding HMO licences for properties in 57 to 99 Morley Grove.

The letter and information sheet sent to each property contained the following information:

- background on what an Article 4 Direction is
- a map showing the area which the Direction affects
- a description and explanation of the form of development covered by the Direction;
- the implications of the Direction
- the reasons for the need of the Direction
- a statement that explains which legislation the Direction is made under
- the intended date that the Direction will come into force
- the date of the consultation period and the last date that any responses must be made by
- details of how responses could be made
- details of the locations of where copies of the Direction and associated map could be viewed (and when they could be viewed), including the website address to view them online

The letters and information sheet can be viewed in the appendices of this report.

Notifying Owners

Article 5(2) of the GPDO states that a Local Planning Authority need not serve a notice to every owner and occupier in the affected area if they consider that it is impracticable because it is difficult to identify or locate the persons; or the number of owners or occupiers within the area to means it is impracticable to notify them.

Enclosed with the letters that the Council sent to properties and HMO licence holders was a form which asked residents to confirm whether they were the owners of the properties. If the residents were not the owners, the form requested that the residents informed the Council of who the owners of the properties are and provided their names and addresses. This allowed the Council to contact the owners at a separate address and give them notice of the Article 4 Direction. A copy of the form can be viewed in the appendices of this report.

The Council decided to undertake the measures outlined above due to the high costs associated with carrying out a land registry search. It is the Council's view that this is

consistent with the legislative requirements of Article 5(2) of the GPDO.

Other consultees

Letters and information sheets relating to both the proposed (made) Directions, along with copies of the proposed Directions, were also sent to the Secretary of State (Eric Pickles MP), the National Planning Casework Unit and Essex County Council.

An internal email was sent to all Harlow Council Councillors and Harlow Council Officers (including Housing Officers) to notify them of the proposed Directions, with relevant information sheets and copies of the Directions, and information on how they could respond to the consultation.

Site Notices

In accordance with Article 5(5) of the GPDO, two site notices were put up in the area of numbers 57 to 99 Morley Grove. The regulations state that the Local Planning Authority has to take reasonable steps to ensure the site notices are not removed or defaced, and if they are, replacements should be put up. A photographic record was made of the site notices placed on site, as follows:



Site notices outside 57 to 99 Morley Grove (photos taken 23rd May 2012)

Site Notices Inspection - 7th June 2012

The site notices were checked on 7th June 2012 to ensure they were still at their original locations. This confirmed that one of the notices had been damaged. This notice was therefore replaced with a new notice.

Press Notices

In accordance with Article 5(1) of the GPDO, a press notice for the Direction was published in the local newspaper (Harlow Star), as follows:

<p>IED s 1999 sion) Council Council re CM20 the plans 446856 officer. ications the date low l of tade F pair and</p>	<p style="text-align: center;">Morley Grove Article 4 Direction PUBLIC CONSULTATION - 21st May 2012 to 11th June 2012</p> <p>Under Article 4(1) of The Town and Country Planning (General Permitted Development) Order 1995 (as amended), Harlow Council is proposing an Article 4 Direction which would affect house numbers 57 to 99 Morley Grove.</p> <p>The Direction would remove permitted development rights, which allow dwelling houses to be used as houses in multiple occupation (HMOs) without first obtaining planning permission. It is intended that the Direction will come into force on 1st July 2013. From this date, property owners wishing to use their dwelling houses as HMOs would first have to apply for planning permission from Harlow Council. This application would not, however, be subject to a fee.</p> <p>Harlow Council is carrying out a public consultation on the Direction between 9am on 21st May 2012 and 5pm on 11th June 2012. Any comments received during this consultation period will be considered before the Direction comes into force.</p> <p>You may post your comments to: Morley Grove Article 4 Direction Consultation, Forward Planning, Harlow Council, The Civic Centre, The Water Gardens, Harlow, CM20 1WG; or you may email your comments to: morleygrovearticle4@harlow.gov.uk</p> <p>You may view a copy of the proposed Direction, map and Information Sheet at:</p> <ul style="list-style-type: none">• Harlow Central Library, The High, Harlow – during normal opening hours; or• Harlow Civic Centre, The Water Gardens, Harlow between 9.00 am – 4.45 pm Monday to Friday; or• Online at http://www.harlow.gov.uk/morleygrovearticle4	<p>classifieds</p> <p>IT WORKS</p> <p>ITEMS JUST</p>
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Press Notice for 57 to 99 Morley Grove Article 4 Direction
(published in 24th May 2012 newspaper)

Availability of Documents

The Direction itself, along with the information sheets, are available to view in Harlow Central Library and the Harlow Civic Centre during normal opening hours. These documents, along with further information, are also available on the Council's website, via a dedicated shortcut URL - <http://www.harlow.gov.uk/morleygrovearticle4>

SECTION 4 - CONSULTATION RESPONSES AND ANALYSIS

Respondent 1

Method: E-mail **Date:** 22nd May 2012

The e-mail expressed support for the proposed Article 4 Direction.

Respondent 2

Method: Post **Date:** 30th May 2012

Comments:

Ever since houses in area were rented out as 'basically flats' for as much money to as many people as possible, the Morley neighbourhood has experienced excessive noise, cars, vans going all times day and night, traffic congestion, parking problems.

There has also been a huge increase in rubbish etc left outside these houses, sometimes for days.

As a result of this rats and other animals have been seen in this area for the first time.

Respondent 3

Method: Post **Date:** 4th June 2012

Comments:

I am fully and strongly in support of the Council's proposed action to remove permitted development rights which allow these houses to be used as houses in multiple occupation.

Having lived for more than 6 years with the intolerable adverse effects of seven HMOs in this small group of houses, I am certain that this protection is vital for our community.

I am also concerned about the failure of the Council to get more than two of these seven HMOs converted back into single dwelling-houses. Five remain, despite one successful prosecution by the Council against a landlord concerning three of the HMOs, an unequivocal decision by the Planning Inspector and totally supportive judgement by a Deputy District Judge.

In your letter you state that "Existing HMOs in this part of Morley Grove would not be affected by the Article 4 Direction". My understanding is that, if the present HMOs taken in more than 6 tenants (becoming large HMOs) they would require planning consent. Since some of the present HMOs are licensed under the Housing Act 2004 for more than 6 tenants, I think this point needs clarification.

Respondent 4

Method: E-mail **Date:** 7th June 2012

Comments:

Please can you register my complete agreement with respect to the proposed changes regarding the Article 4 Direction in Morley Grove.

Respondent 5

Method: Post **Date:** 11th June 2012

A Morley Grove resident and property owner organised a group petition in response to the consultation. The petition strongly supported the proposed Article 4 Direction, and it was signed by owner-occupiers of 22 of the properties in 57 to 99 Morley Grove (numbers 57, 61, 66, 67, 69, 70, 71, 72, 73, 75, 78, 79, 80, 83, 84, 85, 87, 90, 94, 95, 98 and 99).

Respondent 6

Method: E-mail **Date:** 11th June 2012

Comments:

We would object to the imposing an article 4 direction on the following grounds:

There is no evidence of an increase in recent years for HMO's in this area that prompts the need for any action to prevent over intensification. There is not a need for an order unless an imbalance can be proved. Currently we believe that there are only 9 properties being used for small HMO's. This is less than 10% of the estates residential dwellings. This cannot be considered high concentration as suggested in the council reasons for imposing this direction.

The appearance of the dwelling have not changed externally where properties are being used as HMO's and the occupancy numbers are no larger than if occupied as a single family dwelling. We therefore feel that there is no strong change in the intensity of use or in the appearance from the original design concept.

The existing properties have party walls which were considered satisfactory to prevent sound transmittance between dwellings for the time of original construction. It is possible to increase sound insulation between the properties which has been carried out as a condition to license for the HMO by council's environmental health service. So to suggest that small HMO's are an increasing noise nuisance to normal living is not substantiated.

The council keeps logs of complaints by residents where incidents of noise nuisance, nuisance from parking, anti-social behaviour or inadequate provision for refuse storage. Rather than make brash statements it would be more convincing to provide any statistics to show the number and type of complaints that may suggest that the existing properties that are HMO's are causing any problems to existing residences. These would

need to be substantiated rather than allowing manufacture by complainants.

Many other residential areas in the town have numbers of small HMO's within estates some of which are registered others not. Despite this, there is no evidence of nuisance any higher than those in non HMO'S property that suggests the need to restrict the provision alternative affordable housing. A facility that the council is struggling to provide in sufficient numbers.

We strongly feel that the council is miss-using its powers in this case and would not hesitate to lobby the council, member of parliament or to make an application to the Local Government Ombudsman for inappropriate use of the legislation.

Respondent 7

Method: E-mail **Date:** 13th June 2012 (this was submitted after the end of the consultation period, but was accepted at the Council's discretion due to exceptional circumstances)

Comments:

As someone "surrounded both front and rear" of my house by HMOs I have experienced a great deal of noise coming from young tenants of nos.63 and 64, including offensive language and loud music etc. Sound bounces off the walls of these houses rather like a Roman Amphitheatre which means any noise is magnified greatly.

Many of us have seen rats in our gardens and blowflies entering the rear windows at the height of summer and in weather conditions which suit these pests.

These houses were planned by the designer for various professional people, especially the the Studio flats 1 - 56 which were for artists, architects and similar persons requiring a "North light". The vision that our town designer, Sir Frederick had has already changed greatly, as to be expected, but it is sad that the overall appearance of Morley Grove has degenerated. I have lived here since 1976 and brought up my children, and even grandchildren in this house. Any former Community feeling has dissipated with transient tenants and lack of a sense of "belonging" and caring about the surroundings.

I hope that some return to the original design and atmosphere of this special area can be returned by using Article4 Directive. Our original deeds had covenants which forbade certain changes to the design and outer aspects of these houses, thus making this a unique place in which to live. They are certainly wonderful family homes.

I hope these issues can be considered along with others put forward by home owners in Morley Grove.

Respondent 8

Method: Post **Date:** 17th June 2012 (this was submitted after the end of the consultation period, but was accepted at the Council's discretion due to exceptional circumstances)

Comments:

As owners of no. 89 my brothers and I fully support the implementation of planning control re change of use of dwelling houses to that of HMOs.

Use of these family houses as HMOs has indeed resulted in the serious loss of amenity to neighbouring residents that you list in your letter and other matters as blocked communal drains and untidy back gardens which are overlooked by 3 storey houses!

If this legislation deters or strongly controls house owners using these houses as HMOs we greatly welcome it and hope for effective implementation.

Respondent 9

Method: E-mail **Date:** 28th June 2012 (this was submitted as part of an internal consultation with Council officers, after the end of the public consultation period)

It does raise concerns in general regarding reducing the number of HMO's in Harlow.

I fully appreciate the problems that may arise with the risks of anti social behaviour, neighbour disputes etc in areas in Harlow and I raise the issue that if this does go ahead will this set a precedent for other HMO's to also be restricted on other estates?. This may well impact on the following:

- Increase in the number of single homeless people, which may result in an increase of rough sleepers.
- Due to the change to the Housing Benefit System there is already an increased need for HMO's as the cap for the age range has changed from +25 to +35 for self contained accommodation.
- Landlords may deflect from the Harlow area and it's important to note that many Landlords do not just provide HMO's they do also provide sole occupancy.
- Our partner agencies i.e. NACRO, Streets2Homes, Probation rely on this type of accommodation to prevent homelessness