

HMO009 response Merton Council Article 4 HMO consultation – 20 January 2023

From:

Sent: 20 January 2023 09:06

To: mertonlicensing <

Subject: Response to PRS A4D consultation

Hi [REDACTED]

Firstly, thanks to ORS for conducting such an open and good natured consultation. At all times I felt totally comfortable in expressing my views and I could feel in the atmosphere that the other attendees felt the same way. Also, please express my thanks to Lesley and Tara who I felt were sincerely interested in hearing the views and were very proactive in terms of resolving issues (eg. Lesley volunteering to meet with the Chair of the planning committee to talk about [RESPONDENT NAME REDACTED] case). It couldn't have been easy for them at times, feeling a bit 'bombarded' at times I can imagine, and I thought that both conducted themselves in a very professional manner.

I'll be sending another email shortly, as requested, detailing the numbers on my current build project per my presentation on Wednesday, but for now I'd like to express my opinion on the Article 4 Directive (A4D), both for its immediacy and for its need at all. There are 4 parts to my email (A, B, C & D) :

The reason given for introducing A4D was to give the council and planners power over the following issues supposedly caused by HMO's :

Noise - This can be more effectively dealt with by licensing and enforcement. If the landlord falls foul of ASB then enforce and remove his license. It's quite simply not possible for planning officers (or anybody else, for that matter) to guess if there will be any ASB in an HMO in future (possibly over the next 25+ years). How would the planners determine this? Then, there is no over-saturation of HMO's in any Merton borough (see numbers below) so there is no need to limit their numbers via the planning process. In fact the council will be doing a disservice to residents (per the Merton Local Plan) if they do so by reducing this very important source of housing.

Parking – Most HMO tenants don't have cars. Only 5% - 10% of tenants of those landlords in the forum's tenants have cars. As pointed out by that lady, Xuan, I believe that this is a red herring.

Bins - This can be more effectively dealt with by licensing and enforcement. If the landlord doesn't comply then don't give a license and once they have a license and they stop complying then enforce and remove the license. We don't need the planning team to get involved with this.

Space standards - This can be more effectively dealt with by licensing and enforcement. If the landlord doesn't comply then don't give a license and once they have a license and they stop complying (by overcrowding and disregarding the number of tenants per the license etc) then enforce and remove the license. We don't need the planning team to get involved with this.

It was said that the council didn't have the budget to enforce the licensing conditions. It will now – it has a budget of £100,000 per month (£6 million over a 5 year period). Let's use that budget to get rid of rogue landlords. Let's not use a tool (planning permission) that punishes good landlords and their tenants as well as rogue landlords.

I know Tara said that the council wanted to stop the problems at the source as opposed to later on and I appreciate where she's coming from. Here is an analysis of the 4 potential issues mentioned being stopped at source :

Noise – This cannot be stopped at source (except in the case where the landlord has a poor record of HMO management in which case it can be stopped at source by not granting a license i.e by licensing and not the planning dept.) whether by planning permission or licensing as nobody knows how the landlord will perform or how his tenants will behave over the next 25+ years. It has to be dealt with via enforcement. Enforce and remove the license.

Parking – not a problem with HMO's.

Bins - can be stopped at source by not granting a license

Space standards – can be stopped at source by not granting a license

So, all of these issues that can be stopped at source can be done so by licensing.

Has anybody considered the fact that ASB and bins problems could be caused by non-HMO residents in those wards? There could be other factors such as socio-economic reasons. I don't know that there are other reasons or not, but does anybody else know? We need to know before going ahead and implementing A4D.

A4D will reduce the number of quality HMO's as developers will not take on the planning risk which could easily be £100,000+ in abortive costs for fear of being refused planning permission. I know that Tara and Lesley say that the council believe that it won't reduce the number of new HMO's, but it absolutely will. I, for one, cannot proceed with any further HMO's in those 7 wards and it sounds like this was echoed by Lee Dumbarton and his investors and possibly others. To give you an idea of the abortive costs (assuming the house had to be sold 6 months after purchase (9 months to the completion of the sale)) if it was refused planning permission (based on a £600,000 purchase price) :

Stamp duty : £35,500

Legals : £4,500

Funding costs (bridging finance at 10% p.a. for 9 mo.) : £48,000

Architect & planning fees : £10,000

Estate agent selling fees : £10,000

Total : £108,000

There is no way I could take on this size of risk. I'll be forced to develop elsewhere.

An immediate introduction will cause financial harm to some high quality HMO developers and expose the council to liability claims, potentially in the millions of £££'s, and risks taxpayers money as per my presentation on Wednesday.

The numbers of HMO's in all Merton wards are below the London average. In fact, in 3 of the targeted 7 wards they are less than 50% of the London average. There is clearly no over-saturation of HMO's in any of the Merton wards and therefore absolutely no need to control the numbers via the planning process. As stated above all risks can be dealt with via licensing and enforcement.

Please see below the numbers presented by [RESPONDENT'S NAME REDACTED] on Wednesday in the zoom meeting :

Ward	No. of PPS dwellings	% PPS	No. of dwellings	Predicted no. of HMO's	% of HMO's
1 Colliers Wood	1,888	34.50%	4,997	99	2.00%
2 Colliers Green	1,925	32.40%	4,874	104	2.14%
3 Signet Wood	1,165	26.30%	4,117	132	3.21%
4 Bessinger	1,742	46.60%	4,188	255	6.10%
5 Lavender Fields	1,511	33.60%	4,497	78	1.73%
6 Longthornton	1,350	31.70%	4,259	143	3.36%
7 Pollards Hill	1,230	30.00%	4,100	143	3.49%
Merton borough			85,767	1,774	2.07%
London			3,485,000	195,000	5.60%

These numbers were generated by Metastreet in a detailed report costing in the region of £30,000, I believe, and used AI and a number of other sophisticated modelling tools. To me, they contain a fundamental flaw in that they weren't looked at in context (either against the total housing stock in each ward or against London as a whole) until they were presented by [RESPONDENT'S NAME REDACTED] on Wednesday. It's often the case that numbers in isolation can be largely meaningless and that, when it comes to statistics, the context is of paramount importance.

When looking at them in context it looks to me that A4D across all 7 wards is totally unnecessary and that its introduction would, in fact, be harmful to residents and the provision of HMO housing stock. In addition it looks like the council needs to re-examine these numbers in these contexts as they are absolutely fundamental to the whole A4D decision. As an example, it doesn't sound right that Lavender Fields with a predicted number of 1.73% HMO's or Colliers Wood with 2% need an A4D implementation.

I therefore conclude that this A4D process is fundamentally flawed and request that it be halted and the numbers re-examined before the whole issue of A4D is reconsidered again by the council.

Regards,

Merton : Article 4 Directive

Consultation response from : REDACTED

I was granted planning permission to demolish an old house and to build 2 new houses at ADDRESS REDACTED(Graveney ward). The build will be completed on 31/07/23 and the plan was then to convert them to HMO's via a C3 to C4 change of use and get HMO licenses.

This would bring a bed 4 house (with 4 en-suites) and a 6 bed house (with 6 en-suites) to the shared living rental market for professionals and key workers with new build quality, plenty of amenity space and substantial rear gardens.

It took me 3 years to get here with 2 years spent getting planning permission (I worked very closely with the planning officers to agree a scheme that we were all happy with), 6 months to get the pre-commencement conditions discharged and 6 months to put the development funding in place.

Finally, on 24 October 2022 the builders went on-site to start the demolition. The house was demolished in 2-3 weeks and they then began groundworks.

I then received an email from the London Landlord Accreditation Scheme (LLAS) of which I'm a member on 29/11/22 informing me of Merton's immediate Article 4 Directive in the 7 wards from 17/11/22. Obviously it was too late for me to change path as the house was demolished so I had no choice, but to continue building the scheme.

In addition, I have a development funder on board and have paid the CIL of £54,000 which further complicate things.

I submitted a full planning application (22/P3632) on 15/12/22. Obviously all will be fine if I'm granted planning permission, but if I'm refused then my potential losses will be as follows :

1. Difference in market value : The 2 HMO's are valued on a commercial basis (rental yield basis) whereas the 2 family dwellings are valued on a 'bricks & mortar' basis. I've recently had a 6 bed (6 en-suites) new build HMO that I've just completed in Brixton valued by the buy-to-let exit lender on this basis. As we know banks tend to be very conservative with valuations and they were happy to proceed on this basis and then lend at 80% LTV which shows their confidence in the valuation. The valuation report was produced by a RICS surveyor, ran to 120 pages and cost £5,000.

The difference in values of 169 Seely Road as 2 HMO's versus 2 family dwellings is circa £470,000.

2. VAT : The project is zero rated for VAT as it is a full demolition and new build. However, if the houses are sold within 10 years of completion then VAT @ 20% needs to be paid to HMRC on the construction cost. I would have to sell the houses if I can't use them as HMO's as the funding

numbers don't work for me otherwise. If they are HMO's I'll hold them ad infinitum as they are effectively my pension scheme and I run HMO's as my full time business.

The construction cost is £800,000 so the VAT that would be owed to HMRC if they were sold within 10 years is £160,000.

3. Selling costs : I would typically have to pay an estate agent fees in the region of £30,000 to sell the 2 houses.

4. Holding costs : The funding costs while the houses were being marketed until the sale completion date would easily be £40,000.

5. Market movement : I'd be selling the houses in July/Aug '23 when then house prices could have slid compared to today's prices. At a 5% - 7% reduction it would add another £100,000 to my losses.

In summary, points 1-4 show a loss of £700,000 and 1-5 show a loss of £800,000.

I don't have this sort of money to pay out. The effect would be twofold :

1. A loss of £700,000 - £800,000 to me along with bankruptcy.
2. A potential claim against the council.

Obviously these losses wouldn't arise if either :

1. There was a 12 month notice period for the introduction of the Article 4 Directive.
2. I was granted planning permission for the application for 2 HMO's.

Having heard about the experience of REDACTED in his planning committee meeting I subsequently went onto Youtube to watch the meeting. I felt that some of the comments made assumed that all HMO's were the 'rogue landlord' types (which I also detest as they gave the shared living industry a bad name – hopefully we can rid Merton of them via the new licensing and enforcement schemes) and that there was too much emotion and subjectivity involved. In short, I'd be very concerned about my scheme getting a fair hearing at a planning committee meeting. It looks to the viewer like all HMO landlords are treated as rogue landlords.

Then, lastly, I've read through the cabinet report from 22 October '22 and must say that I don't recognise 2 facts :

1. On average £10,000 - £30,000 is spent on converting a family dwelling to an HMO.
2. The value of an HMO is the same or less than a family dwelling

All of the stories I heard from the professional landlords/developers at the 3 forums I attended spoke of £300,000+ on build costs and valuations far, far higher than for family dwellings.

Perhaps points 1 and 2 are valid where a landlord makes some very basic alterations to a small flat or house, but there are a number of landlords/developers who do much more extensive revisions (full gut & refurb with en-suites) where the build costs are the £300,000+ number.

Also, banks and investors see these HMO's at a different valuation model to bricks and mortar valuations. The build-to-rent market with large insurance companies like Legal & General (see their Wandsworth development below) and Waitrose entering this market is further helping to reinforce the precedent for this valuation model :

<https://group.legalandgeneral.com/en/newsroom/press-releases/legal-general-to-develop-flagship-build-to-rent-scheme-in-wandsworth-delivering-1-000-new-homes>

I urge the cabinet in the strongest possible manner to please find out more on these 2 points before making a decision as I think they'll be making a decision based on incorrect information which could result in huge liability claims and losses for the council.

Regards,

REDACTED

Addendum

Please see below photos of my recent new build 6 bed (6 en-suite) shared living house in Brixton :









