

REPORT TO: CABINET

DATE: 14 MARCH 2013

TITLE: CONFIRMATION OF PROPOSED MORLEY GROVE ARTICLE 4 DIRECTIONS

PORTFOLIO HOLDERS: COUNCILLOR PHIL WAITE

LEAD OFFICER: GRAEME BLOOMER, HEAD OF REGENERATION (01279) 446270

CONTRIBUTING OFFICERS: DIANNE COOPER, PLANNING AND BUILDING CONTROL MANAGER (01279) 446595
DAVID WATTS, COMMUNITY CONSULTATION PLANNING OFFICER (01279) 446577

**This is NOT a key decision
Call-in procedures may apply
This decision will affect Hare Street and Little Parndon Ward**

RECOMMENDED that Cabinet approve the confirmation of two proposed (made) Article 4 Directions in the Hare Street and Little Parndon Ward at 1 to 56 Morley Grove and 57 to 99 Morley Grove.

REASON FOR DECISION

- A** To reflect the support for the Directions from residents in Morley Grove, following public consultations.
- B** To reflect the evidence supporting the need for the proposed Directions.

BACKGROUND

- 1 On 16 January 2012 the Select Committee for Regeneration & Enterprise, Community & Citizenship and Environment recommended to Cabinet that the Council commence procedures to designate an Article 4 Direction in Morley Grove. On 26 January 2012, Cabinet resolved that the Council commence the aforementioned procedures.
- 2 An Article 4 Direction allows the Council to manage change in designated areas in a positive way, by removing certain permitted development rights normally available to householders.
- 3 A statutory consultation was conducted within Morley Grove in May and

June 2012 which produced a positive response to the proposed designation of the Article 4 Directions.

- 4 If Cabinet agrees the recommendation, the Article 4 Direction will come into force on 1 July 2013.
- 5 Following amendments to the legislation in 2010, a change of use from a dwelling house (Use class C3) to an HMO (Use class C4) has been included in permitted development rights. This means houses with between three and six unrelated people living at property which is their only or main residence, who share one or more basic amenity (such as a kitchen) are classed as HMOs but do not require planning permission for this Use Class change from a dwelling house.

Effect of the Article 4 Direction in Morley Grove

- 6 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. Properties in Morley Grove will have permitted development rights removed through the Article 4 Direction, which means that planning permission will be required if more than three unrelated persons want to live in a dwelling house in Morley Grove if the house has not been occupied on this basis prior to 1 July 2013.
- 7 There are already a number of existing HMOs in Morley Grove and the street currently has the highest proportion of known HMOs to any other street in Harlow, at around 10% of properties.
- 8 The Council recognises the contribution that HMOs can make to the provision of low cost housing in sustainable locations. However, any higher concentration of HMOs in Morley Grove than the existing concentration would be out of character and would result in the exacerbation of the negative impacts already identified such as noise nuisance, parking problems, anti-social behaviour, refuse and rubbish accumulations. 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.

Procedure for the proposing (making) of Article 4 Directions

- 9 An Article 4 Direction relating to 57 to 99 Morley Grove was proposed (made) on 17 May 2012, with public consultation running from 21 May 2012 to 11 June 2012. This Direction and its boundary map are attached at Appendix 1.
- 10 The Article 4 Direction was extended to include 1 to 56 Morley Grove on 25

May 2012, with public consultation running from 29 May 2012 to 19 June 2012. This Direction and its boundary map are attached at Appendix 2.

Public consultation

- 11 Information on the proposed Direction was sent to each property and known landlords/agents of properties in Morley Grove. Additionally, site notices were displayed, press notices were published, and information was provided on the Council website, in the Central Library and at the Civic Centre.
- 12 The consultation for the Article 4 Direction relating to 1 to 56 Morley Grove received a total of three representations. Two of them were in support of the proposed Direction, whilst one expressed concern over the impacts of the possible reduction of availability of HMOs in Harlow.
- 13 The consultation for the Article 4 Direction affecting 57 to 99 Morley Grove received a total of eight representations. Six supported the proposed Direction, one expressed concern over the impacts of the possible reduction of availability of HMOs in Harlow and one expressed concern over the lack of evidence for justifying the Direction.
- 14 In addition to the above, a petition strongly supporting the Direction was signed by residents of 19 properties in 1 to 56 Morley Grove and 22 properties in 57 to 99 Morley Grove.
- 15 The Article 4 Directions cannot come into force immediately as a year's notice is required – the active date being 1 July 2013.
- 16 The consultation Summary Responses for both Directions, are available at Appendix 3 of this Report. Versions of these Reports (which excluded Officers' responses) were available on the Council website from September 2012.

Implementation

- 17 Should Cabinet approve the Directions, all stakeholders (owner/occupiers and landlords/agents of properties in Morley Grove) will be notified that the Direction relating to their property will come into force on 1 July 2013. This will be done by way of information sheets to each property, site notices and press notice together with publication on the Council's website to announce the confirmation of the Directions and notices in the Central Library and the Civic Centre.
- 18 After 1 July 2013 if more than three unrelated persons propose to live together in a property in Morley Grove that property will require planning permission as an HMO. This will not affect existing properties currently used

as HMOs.

- 19 Such planning applications will then be considered under existing local plan policies and National Planning Policy Framework (NPPF).

IMPLICATIONS

Regeneration

Regeneration measures aimed at addressing current housing pressures are likely to come to fruition only in the medium to long term. In the interim Licensing offers an opportunity to better regulate this aspect of the Housing market.

Author: **Graeme Bloomer, Head of Regeneration**

Finance

None specific

Author: **Simon Freeman, Head of Finance**

Housing

Multiple occupation, while seldom a tenure type of choice, offers an essential alternative to homelessness for many in the current housing market conditions. Increase regulation of standards would make it more suitable for that purpose while those conditions persist.

Author: **Andrew Murray, Head of Housing**

Community Wellbeing

While HMOs can provide much-needed housing they can lead to increases in anti-social behaviour and the general deterioration of a neighbourhood

Author: **Lynn Seward, Head of Community Wellbeing**

Governance (includes HR)

Following the statutory process mitigates against a risk of challenge.

Author: **Amanda Julian Legal Services Manger**

BACKGROUND PAPERS

None

GLOSSARY OF TERMS/ABBREVIATIONS USED

HMOs – houses in multiple occupation



**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)
ORDER 1995 AS AMENDED
DIRECTION MADE UNDER ARTICLE 4(1) TO WHICH ARTICLE 5 APPLIES**

WHEREAS Harlow Council being the appropriate local planning authority within the meaning of article 4(4) of the GPDO, are satisfied that it is expedient that development of the description(s) set out in the Schedule below should not be carried out on the land shown outlined in bold on the attached plan, unless planning permission is granted on an application made under Part III of the Town and Country Planning Act 1990 as amended,

NOW THEREFORE the said Council in pursuance of the power conferred on them by article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 hereby direct that the permission granted by article 3 of the said Order shall not apply to development on the said land of the description(s) set out in the Schedule below:

SCHEDULE

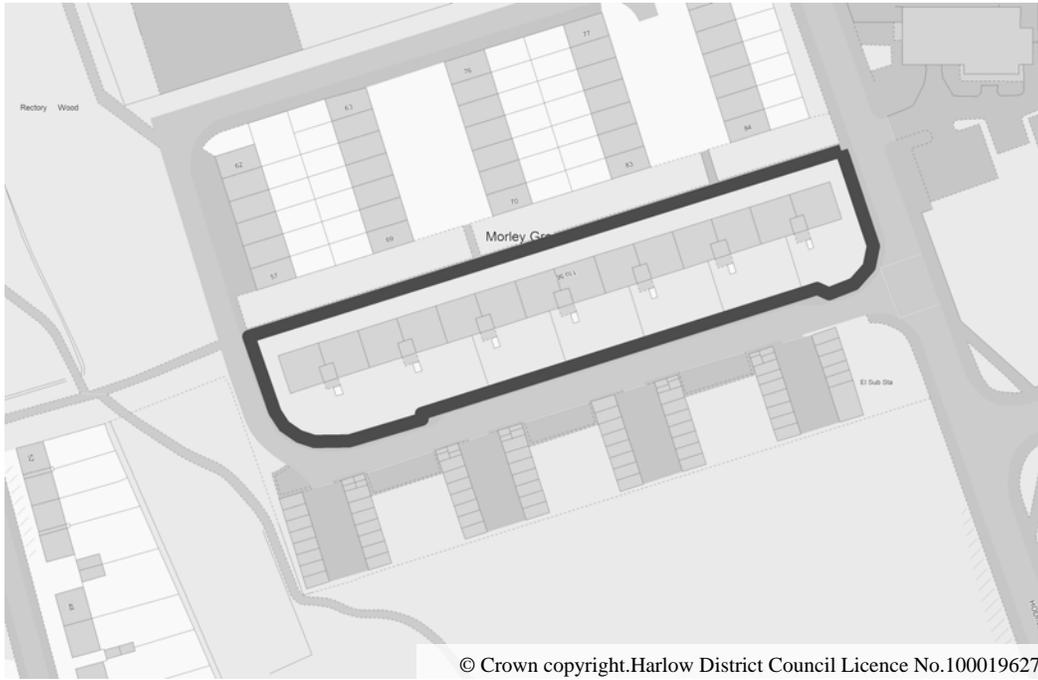
1. Change of use of a building to a use falling within Class C4 (houses in multiple occupation) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) from a use falling within Class C3 (dwellinghouses) of that Schedule, being development comprised within Class I of Part 3 of Schedule 2 to the said Order and not being development comprised within any other Class.

The Article 4 Direction will come into force on 1st July 2013.

Made under the Common Seal of Harlow Council this 25th day of May 2012.

The Common Seal of
the Council was affixed
to this Direction in
the presence of

.....Duly Authorised Officer



The area (outlined in bold) comprises:

1 to 56 Morley Grove



**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)
ORDER 1995 AS AMENDED
DIRECTION MADE UNDER ARTICLE 4(1) TO WHICH ARTICLE 5 APPLIES**

WHEREAS Harlow Council being the appropriate local planning authority within the meaning of article 4(4) of the GPDO, are satisfied that it is expedient that development of the description(s) set out in the Schedule below should not be carried out on the land shown outlined in bold on the attached plan, unless planning permission is granted on an application made under Part III of the Town and Country Planning Act 1990 as amended,

NOW THEREFORE the said Council in pursuance of the power conferred on them by article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 hereby direct that the permission granted by article 3 of the said Order shall not apply to development on the said land of the description(s) set out in the Schedule below:

SCHEDULE

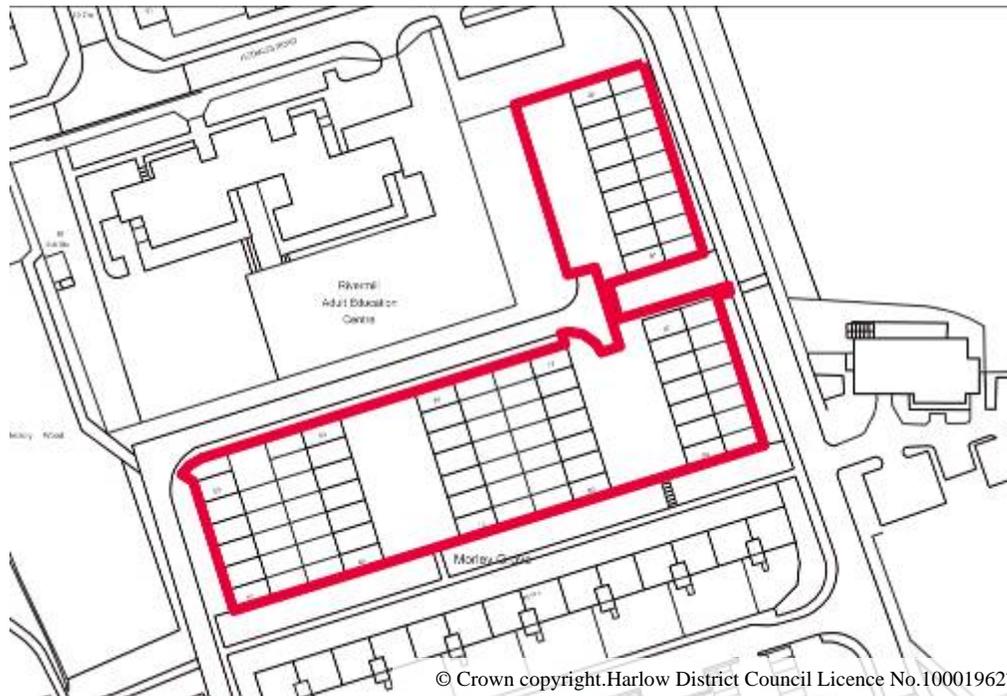
1. Change of use of a building to a use falling within Class C4 (houses in multiple occupation) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) from a use falling within Class C3 (dwellinghouses) of that Schedule, being development comprised within Class I of Part 3 of Schedule 2 to the said Order and not being development comprised within any other Class.

The Article 4 Direction will come into force on 1st July 2013.

Made under the Common Seal of Harlow Council this 17th day of May 2012.

The Common Seal of
the Council was affixed
to this Direction in
the presence of

.....Duly Authorised Officer



The area (outlined in bold) comprises:

- 57 to 99 Morley Grove

Method	Date	Representation	Council Officer response
Email	29/05/12	E-mail expressed support for the proposed Article 4 Direction.	The support is noted.
Post	31/05/12	<p>With reference to your notification of Article 4 Direction Morley Grove. I totally am against HMOs in Morley Grove because of:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Noise (including noise transmission from HMOs to neighbouring properties, loud music and shouting from HMO tenants and visitors) <input type="checkbox"/> Increased parking pressures and obstruction <input type="checkbox"/> General disturbance partly caused by traffic movements <input type="checkbox"/> Anti-social behaviour <input type="checkbox"/> Lack of adequate refuse provision (overflowing rubbish & rodents) <p>I feel very strongly about this. HMOs are a very bad thing in Morley Grove. As an owner I have lived here many years. I am totally against them.</p>	The support is noted and the reasons given as to why there are concerns about properties in multiple occupation. The Article 4 Direction will require that if more than three unrelated people propose to live together in a property, planning permission is required if the property has only been in single occupation before 1 July 2013. Some of the matters raised are not planning considerations, however, matters relating to planning will be assessed in any subsequent planing applications.
Post	11/06/12	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 residents of 19 properties in 1 to 56 Morley Grove and 22 properties in 57 to 99 Morley Grove	The support is noted and the reasons given as to why there are concerns about properties in multiple occupation. Some of the matters raised are not planning considerations, however, matters relating to planning will be assessed in any subsequent planing applications.
Email	28/06/12	<p>It does raise concerns in general regarding reducing the number of HMO's in Harlow.</p> <p>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:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Increase in the number of single homeless people, which may result in an increase of rough sleepers. <input type="checkbox"/> 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. <input type="checkbox"/> Landlords may defect 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. <input type="checkbox"/> Our partner agencies i.e. NACRO, Streets2Homes, Probation rely on this type of accommodation to prevent homelessness 	The concern is noted and the implications that may arise for people that rely on this type of accommodation if the Article 4 Direction results in a reduction in the number of HMOs.
Method	Date	Representation	Council Officer response
Email	22/05/12	E-mail expressed support for the proposed Article 4 Direction.	The support is noted.
Post	30/05/12	<p>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.</p> <p>There has also been a huge increase in rubbish etc left outside these houses, sometimes for days.</p> <p>As a result of this rats and other animals have been seen in this area for the first time.</p>	The support is noted and the reasons given as to why there are concerns about properties in multiple occupation. Some of the matters raised are not planning considerations, however, matters relating to planning will be assessed in any subsequent planing applications. Issues such as noise and rubbish are addressed through Environmental Health or if the property is licenced through the licencing requirements.

Post	<p>04/06/12 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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>The support is noted and the reasons given as to why there are concerns about houses in multiple occupation. The Article 4 Direction will mean that planning permission is required if more than 3 unrelated persons are proposing to live together in a property that has not previously been occupied as HMO before 1 July 2013. Currently, as stated, properties occupied by more than 6 unrelated persons do require planning permission. However, a licence for 6 or more persons does not necessarily mean that 6 or more people are living there. The licence establishes that the property meets the licencing requirements for the number of people stated on the licence.</p>
Email	<p>07/06/12 Please can you register my complete agreement with respect to the proposed changes regarding the Article 4 Direction in Morley Grove.</p>	<p>The support is noted.</p>
Post	<p>11/06/12 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</p>	<p>The support is noted and the reasons given as to why there are concerns about properties in multiple occupation. Some of the matters raised are not planning considerations, however, matters relating to planning will be assessed in any subsequent planing applications.</p>

Email	<p data-bbox="268 190 1281 214">11/06/12 We would object to the imposing an article 4 direction on the following grounds:</p> <p data-bbox="346 240 1281 358">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.</p> <p data-bbox="346 384 1281 456">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.</p> <p data-bbox="346 482 1281 599">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.</p> <p data-bbox="346 625 1281 742">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.</p> <p data-bbox="346 768 1281 859">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.</p> <p data-bbox="346 885 1281 954">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.</p>	<p data-bbox="1297 190 1925 431">The objection to Article 4 direction is noted. Evidence has shown that Morley Grove has the highest number of HMOs to any other streets in Harlow. Not all HMOs are licenced so some of the issues raised would only be addressed if the licencing is extended to all properties. Article 4 direction requires planning permission to be sought for what is normally permitted development. This requirement enables consideration to be given as to whether the proposal meets planning policy requirements. It is recognised that some of the matters raised are not planning considerations, however, matters relating to planning will be assessed in any subsequent planing applications.</p>
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Email	<p>13/06/12 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.</p>	<p>The support is noted and the reasons given as to why there are concerns about properties in multiple occupation. Some of the matters raised are not planning considerations, however, matters relating to planning will be assessed in any subsequent planning applications.</p>
	<p>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.</p>	
	<p>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.</p>	
	<p>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.</p>	
Post	<p>17/06/12 My brothers and I fully support the implementation of planning control re change of use of dwelling houses to that of HMOs.</p>	<p>The support is noted and the reasons given as to why there are concerns about properties in multiple occupation. Some of the matters raised are not planning considerations, however, matters relating to planning will be assessed in any subsequent planning applications.</p>
	<p>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!</p>	
	<p>If this legislation deters or strongly controls house owners using these houses as HMOs we greatly welcome it and hope for effective implementation.</p>	
Email	<p>28/06/12 It does raise concerns in general regarding reducing the number of HMO's in Harlow.</p>	<p>The concern is noted and the implications that may arise for people that rely on this type of accommodation if the Article 4 Direction results in a reduction in the number of HMOs.</p>
	<p>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:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Increase in the number of single homeless people, which may result in an increase of rough sleepers. <input type="checkbox"/> 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. <input type="checkbox"/> 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. <input type="checkbox"/> Our partner agencies i.e. NACRO, Streets2Homes, Probation rely on this type of accommodation to prevent homelessness 	